

## The Planning Inspectorate

### QUESTIONNAIRE (s78) and (s20) PLANNING AND LISTED BUILDING CONSENT (Online Version)

You must ensure that a copy of the completed questionnaire, together with any attachments, are sent to the appellant/agent by the date given in the start letter. **You must include details of the statutory development plan, even if you intend to rely more heavily on some other emerging plan.**

If notification or consultation under an Act, Order or Departmental Circular would have been necessary before granting permission and has not yet taken place, please inform the appropriate bodies of the appeal now and ask for any comments to be sent direct to us by the date your statement is due.

Appeal Reference

APP/B1605/W/20/3261154

Appeal By

ON BEHALF OF WILLIAM MORRISON (CHELTENHAM) LTD AND THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST

Site Address

Land adjacent to Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU  
Grid Ref Easting: 396492  
Grid Ref Northing: 221592

#### PART 1

1.a. Do you consider the written representation procedure to be suitable? Yes  No

*Note: If the written procedure is agreed, the Inspector will visit the site **unaccompanied** by either party unless the relevant part of the site cannot be seen from a road or other public land, or it is essential for the Inspector to enter the site to check measurements or other relevant facts.*

1.b. Do you wish to be heard by an Inspector at; Inquiry  Hearing

1.c. How long do you expect an inquiry would last? 4 day(s)

1.d. How many witnesses do you intend to call? 2

2.a. If the written procedure is agreed, can the relevant part of the appeal site be seen from a road, public footpath, bridleway or other public land? Yes  No

2.b. Is it essential for the Inspector to enter the site to assess the impact of the proposal? Yes  No

2.c. Are there any known health and safety issues that would affect the conduct of the site inspection? Yes  No

3.a. Are there any other appeals or matters relating to the same site still being considered by us or the Secretary of State? Yes  No

3.b. Are there any other appeals or matters adjacent or close to the site still being considered by us or the Secretary of State? Yes  No

#### PART 2

4. Does the appeal relate to an application for approval of reserved matters?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
5. Was a site ownership certificate submitted with the application?	Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>
6. Did you give publicity to the application in accordance with either Article 15 of the DMPO 2015, Section 67/73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or Regulation 5 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990?	Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>
6.a. If a press advert notice was published, please upload a copy <input checked="" type="checkbox"/> <a href="#">see 'Questionnaire Documents' section</a>			
7. Does the appeal relate to a county matter?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
<b>8. Please indicate the development type for the application to which the appeal relates.</b>			
Major Developments			<input checked="" type="checkbox"/>
Minor Developments			<input type="checkbox"/>
Other Developments			<input type="checkbox"/>
<b>8.a. Major Developments</b>			
Dwellings			<input checked="" type="checkbox"/>
Offices/R and D/light industry			<input type="checkbox"/>
General industry/storage/warehousing			<input type="checkbox"/>
Retail and services			<input type="checkbox"/>
Traveller caravan pitches			<input type="checkbox"/>
All other major developments			<input type="checkbox"/>
<b>Is the appeal site within:</b>			
9.a. A Green Belt?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
9.b. An Area of Outstanding Natural Beauty?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
10. Is there a known surface or underground mineral interest at or within 400 metres of the appeal site which is likely to be a material consideration in determining the appeal?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>

### PART 3

11. Would the development require the stopping up or diverting of a public right of way?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
12.a. Is the site in a Conservation Area?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
12.b. Is the site adjacent to a Conservation Area?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
12.c. Does the appeal proposal include the demolition of a non-listed building within a conservation area?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
13.a. Does the proposed development involve the demolition, alteration or extension of a Grade I / II* / II listed building?	Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/>
13.b. Would the proposed development affect the setting of a listed building?	Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>
Please attach a copy of the relevant listing description from the List of Buildings of Special Architectural or Historic Interest <input checked="" type="checkbox"/> <a href="#">see 'Questionnaire Documents' section</a>			
13.c. If YES to 13.a or 13.b, was Historic England consulted?	Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/>

Please attach a copy of any comments  
 see '[Questionnaire Documents](#)' section

14. Has a grant been made under s3A or s4 of the Historic Buildings and Ancient Monuments Act 1953? Yes  No

15.a. Would the proposals affect an Ancient Monument (whether scheduled or not)? Yes  No

16. Is any part of the site subject to a Tree Preservation Order? Yes  No   
 Please send a plan showing the extent of the Order and any relevant details.  
 see '[Questionnaire Documents](#)' section

17. Have you made a Local Development Order under s61A to 61C of the Town and Country Planning Act 1990 (as inserted by s40 of the Planning & Compulsory Purchase Act 2004) relating to the application site? Yes  No

18. Does the appeal involve persons claiming Gypsy/Traveller status, whether or not this is accepted by the planning authority? Yes  No

19.a. Is the appeal site in or adjacent to or likely to affect an SSSI or an internationally designated site (ie. cSAC, SAC, pSPA, SPA Ramsar)? Yes  No

19.b. Are any protected species likely to be affected by the proposals? Yes  No   
 Please attach the comments of Natural England or attach details, including relevant extracts of any protected species standing advice that has been considered.  
 see '[Questionnaire Documents](#)' section

#### PART 4

##### Environmental Impact Assessment - Schedule 1

20.a.i. Is the proposed development Schedule 1 development as described in Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011? Yes  No

##### Environmental Impact Assessment - Schedule 2

20.b.i. Is the proposed development Schedule 2 development as described in Column 1, Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011? Yes  No

20.c.i. Have you issued a screening opinion (SO) Yes  No   
 Please attach a copy of the SO that was placed on the planning register, and any other related correspondence  
 see '[Questionnaire Documents](#)' section

20.c.ii. Did the SO state that the proposed development is EIA development as defined by the EIA Regulations? Yes  No

##### Environmental Impact Assessment - Environmental Statement (ES)

20.d. Has the appellant supplied an environmental statement? Yes  No

##### Environmental Impact Assessment - Publicity

20.e. If applicable, please attach a copy of the site notice and local Applies  N/A

advertisement published as required for EIA development.

21. Have all notifications or consultations under any Act, Order or Departmental Circular, necessary before granting permission, taken place? Yes  No

**Please inform the appropriate bodies of the appeal now and ask for any comments to be sent to us by the date your statement is due.**

## PART 5

22. Do you wish to attach your statement of case? Yes  No

### For appeals dealt with by written representations only

23. If this appeal is not following the written representations expedited procedure, do you intend to send a statement of case about this appeal? Yes  No

### Copies of the following documents must, if appropriate, be attached to this questionnaire

24.a. a copy of the letter with which you notified people about the appeal;

see '[Questionnaire Documents](#)' section

24.b. a list of the people you notified and the deadline you gave for their comments to be sent to us;

see '[Questionnaire Documents](#)' section

Deadline

30/12/2020

24.c. all representations received from interested parties about the original application;

see '[Questionnaire Documents](#)' section

24.d. the planning officer's report to committee or delegated report on the application and any other relevant documents/minutes;

see '[Questionnaire Documents](#)' section

see '[Questionnaire Documents](#)' section

24.e. any representations received as a result of a service of a site ownership notification;

24.f. extracts from any relevant statutory development plan policies (even if you intend to rely more heavily on the emerging plan);

*You must include the front page, the title and date of the approval/adoption, please give the status of the plan. Copies of the policies should include the relevant supporting text. You must provide this even if the appeal is against non-determination.*

see '[Questionnaire Documents](#)' section

see '[Questionnaire Documents](#)' section

List of policies

policies HD4 Chelt Plan, SD8 JCS

24.g. extracts of any relevant policies which have been 'saved' by way of a Direction;

24.h. extracts from any supplementary planning guidance, that you consider necessary, together with its status, whether it was the subject of public consultation and consequent modification, whether it was formally adopted and if so, when;

24.i. extracts from any supplementary planning document that you consider necessary, together with the date of its adoption;

*In the case of emerging documents, please state what stage they have reached.*

24.j. a comprehensive list of conditions which you consider should be imposed if planning permission is granted;

Only tick that this applies if you intend to submit a list of conditions with the questionnaire. If you do not submit the list with the questionnaire, then this should be submitted by the date your statement is due. This list must be submitted separately from your appeal statement.

24.k. if any Development Plan Document (DPD) or Neighbourhood Plan relevant to this appeal has been examined and found sound/met the basic conditions and passed a referendum, the date the DPD or Neighbourhood Plan is likely to be adopted and, if you consider this date will be before the Inspector's decision on this appeal is issued, an explanation of the Council's policy position in respect of this appeal upon its adoption. You should also include an explanation of the status of existing policies and plans, as they relate to this appeal, upon adoption and which (if any) will be superseded;

24.l. if any DPD or Neighbourhood Plan relevant to this appeal has been submitted for examination, or in the case of a Neighbourhood Plan has been examined and is awaiting a referendum, an explanation of any substantive changes in the progress of the emerging plan, and their relevance to this appeal if it is considered that the plan will not be adopted before the Inspector's decision on this appeal is issued;

24.m. your Authority's CIL charging schedule is being/has been examined;

Please provide the date the CIL is likely to be adopted:

15/10/2018

24.n. your Authority's CIL charging schedule has been/is likely to be adopted;

Please provide the date of adoption:

01/01/2019

24.o. any other relevant information or correspondence you consider we should know about.

see '[Questionnaire Documents](#)' section

#### For the Mayor of London cases only

25.a. Was it necessary to notify the Mayor of London about the application? Yes  No

25.b. Did the Mayor of London issue a direction to refuse planning permission? Yes  No

#### LPA Details

I certify that a copy of this appeal questionnaire and any enclosures will be sent to the appellant or agent today.

LPA's reference

20/00683/OUT

Completed by

Lorraine Cox

On behalf of

Cheltenham Borough Council

Please provide the details of the officer we can contact for this appeal, if different from the Planning Inspectorate's usual contact for this type of appeal.

Name

Phone no (including dialling code)

Email

**Please advise the case officer of any changes in circumstances occurring after the return of the questionnaire.**

## QUESTIONNAIRE DOCUMENTS

Appeal Reference	APP/B1605/W/20/3261154
Appeal By	ON BEHALF OF WILLIAM MORRISON (CHELTENHAM) LTD AND THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST
Site Address	Land adjacent to Oakhurst Rise Cheltenham Gloucestershire GL52 6JU Grid Ref Easting: 396492 Grid Ref Northing: 221592

### The documents listed below were uploaded with this form:

<b>Relates to Section:</b>	PART 2
<b>Document Description:</b>	6.a. A copy of the notice published.
<b>File name:</b>	Advert 2020.05.07.pdf
<b>Relates to Section:</b>	PART 3
<b>Document Description:</b>	13.b. A copy of the relevant listing description from the List of Buildings of Special Architectural or Historic Interest.
<b>File name:</b>	Listing Charlton Manor.pdf
<b>Relates to Section:</b>	PART 3
<b>Document Description:</b>	13.c. A copy of comments from Historic England.
<b>File name:</b>	Consultee comment Historic England.pdf
<b>Relates to Section:</b>	PART 3
<b>Document Description:</b>	16. A plan showing the extent of the Order and any relevant details.
<b>File name:</b>	TPO order PO96.pdf
<b>File name:</b>	TPO Plan.pdf
<b>Relates to Section:</b>	PART 3
<b>Document Description:</b>	19.b. The comments of Natural England or details, including relevant extracts, of any protected species standing advice that has been considered.
<b>File name:</b>	Consutee comment GCER.pdf
<b>File name:</b>	Consultee comment natural England.pdf
<b>Relates to Section:</b>	PART 4
<b>Document Description:</b>	20.c.i. A copy of the screening opinion (SO) that was placed on the planning register, along with any other related correspondence.
<b>File name:</b>	History Decision notice 1701736SCREEN.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.a. A copy of the letter with which you notified people about the appeal.
<b>File name:</b>	Neighbour notification letter.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.b. A document containing a list of the people you notified of the appeal.
<b>File name:</b>	Neighbour notification list.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.c. Copies of all representations received from interested parties about the

	original application.
<b>File name:</b>	Additional representation.pdf
<b>File name:</b>	Public reports pack letters of rep 17th-Sep-2020 14.30 Planning Committee1.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.d. The planning officer's report to committee or delegated report on the application and any other relevant documents/minutes.
<b>File name:</b>	Officers Report update for committee1.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.d. the planning officer's report to committee or delegated report on the application and any other relevant documents/minutes;
<b>File name:</b>	Printed minutes 17th-Sep-2020 14.30 Planning Committee.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.f. Copies of extracts from any relevant statutory development plan policies.
<b>File name:</b>	Policy HD4 Chelt plan.pdf
<b>File name:</b>	Policy SD8 JCS.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.f. Copies of extracts from any relevant statutory development plan policies.
<b>File name:</b>	Policy HD4 Chelt plan.pdf
<b>File name:</b>	Policy SD8 JCS.pdf
<b>Relates to Section:</b>	PART 5
<b>Document Description:</b>	24.o. Copies of any other relevant information or correspondence you consider we should know about.
<b>File name:</b>	History 18 02171OUT.zip
<b>Completed by</b>	Not Set
<b>Date</b>	19/11/2020 11:44:03
<b>LPA</b>	Cheltenham Borough Council

**Relates to Part 2 Question 6a**

**LISTED BUILDINGS AND BUILDINGS IN CONSERVATION AREAS  
LEGISLATION. TOWN AND COUNTRY PLANNING LEGISLATION FOR  
APPLICATIONS RECEIVED**

- 20/00691/FUL      114 High Street, Cheltenham  
Change of use from A1 (retail) and B1 (offices) to create 6 no. flats on first, second and third floors (of 114/116 High Street and 33 Cambray Place) including bin and bicycle storage on ground floor, alterations to elevation to provide replacement entrance door and new post box, including new louvre door and replacement windows
- 20/00683/OUT      Land Adjacent To, Oakhurst Rise, Cheltenham  
Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration
- 19/01699/LBC      Flat 1, Burford Lodge, 5 Montpellier Parade, Cheltenham  
Replace the current roof lantern over the hallway and felt roof covering surrounding the lantern
- 20/00673/FUL      Deerhurst, 88 Portland Street, Cheltenham  
20/00673/LBC      Demolition of existing non-historic rear extension and provision of new replacement rear extension, replacement dormer window, new rooflights and other internal alterations and refurbishments to the building (including an increase from 8 flats to 9 flats).
- 20/00677/FUL      5B Queens Road, Cheltenham  
External alterations and redevelopment of existing garage to convert into home craft studio to include an increase in height, addition and replacement windows
- 20/00698/FUL      Ranmoor, 35 St Stephens Road, Cheltenham  
Proposed erection of no. 1 single storey dwelling and associated parking.
- 20/00697/FUL      27A Leckhampton Road, Cheltenham  
Demolition of 2no. garages and replaced with 1no. dwelling

Full details of the applications may be inspected during normal office hours in the main reception, MUNICIPAL OFFICES, CHELTENHAM or viewed and commented online at [www.cheltenham.gov.uk/publicaccess](http://www.cheltenham.gov.uk/publicaccess) during the period of 21 days, beginning with the date of the publication of this notice. Alternatively free access to the internet can be booked at your local library.

Date 7th May 2020

**Relates Part 3 Question 13b**

## CHARLTON KINGS

SO92SE	ASHLEY ROAD
630-1/2/2	(West side)
14/12/83	Charlton Manor

### II

House. 1864, with later addition to left return. Possibly by Henry Dangerfield, Borough Engineer, for Charles Andrews (speculator). Stone rubble laid 'crazily' with ashlar dressings, ornately tiled roof and ashlar stacks with cornices; range to left has mock timber-framing and render. 'Horrid' Gothic in 2 parts.

EXTERIOR: 2 storeys, 3 first-floor windows with stepped and barge-boarded gables over. Chamfered plinth. First floor: oriel window to centre between mullioned and transomed windows with relieving arches. Ground floor: central entrance in porch with double pointed, part-glazed doors between sidelights, cusped windows to sides of porch and pointed plank door within in chamfered surround. 3-light mullioned and transomed windows to either side of porch, those to right with cusped upper lights under relieving arches. 2 gable return.

Left return has jettied extension, mullion and transom windows. Angled bay at angle with original part. Projecting octagonal bay to left linking with former billiard room.

INTERIOR: not inspected.

HISTORICAL NOTE: the Battledown Estate was laid out in 1858 by Henry Dangerfield, Borough Engineer. Charlton Manor, originally known as Simla Lodge, was the first house to be built and occupied on the Estate.

(O'Connor DA: Battledown The Story of a Victorian Estate.: Stroud: 1992-: 74-5, 86).

Listing NGR: SO9667121629

**Relates Part 3 Question 13c**

## Historic England

**Stephen Guy** 13th May 2020

Thank you for your letter of 1st May 2020 regarding the above application for planning permission. On the basis of the information available to date, we offer the

following advice to assist your authority in determining the application.

### Summary

We consider the open green space of the application site to contribute significantly to the setting of the Grade II\* listed Ashley Manor. Historic England objects to the proposed development and considers the quantum, location and screening of the development would result in harm to heritage significance, as defined by its setting.

### Historic England Advice

While we have rehearsed the significance of Ashley Manor and its setting at the time of the 2017 and 2018 applications, we consider it appropriate, as a reminder, to repeat our own assessment of those aspects of setting that contribute to heritage significance.

The villa at St Edwards School, known most recently as Ashley Manor, was built for

Nathaniel Hartland (the single most important lender of money to builders in the Pittville development in Cheltenham). Its list description describes it as 'One of the

finest villas in the Cheltenham area, its internal plasterwork is a particular feature for

its diversity, depth and quality of composition.' The original approach to the house is

from London Road to the south; the sinuous tree-lined drive remains largely unaltered. The Grade II listed boundary walls and gate piers (marking the entrance

from London Road), and further into the grounds, the Grade II summerhouse and

drive piers to the surviving carriage sweep are all remnants of this high-status, grandiose villa-house ensconced within its generous parkland setting. Indeed, the

topography of the site is significant; the land rises markedly from south to north, which would have been a conscious motive for siting this 'villa' style dwelling

29 QUEEN SQUARE BRISTOL BS1 4ND

Telephone 0117 975 1308

[HistoricEngland.org.uk](http://HistoricEngland.org.uk)

Historic England is subject to both the Freedom of Information Act (2000) and Environmental Information Regulations (2004). Any

Information held by the organisation can be requested for release under this legislation.

overlooking the town. This 19th century revisiting of ancient Classical-inspired villas

was heavily influenced by Andrea Palladio's work of the 16th century. Palladio's villa

suburbana (country houses purely for residential or leisure as opposed to agriculture), in particular the Villa Rotunda, gave rise to a vast tradition in villa architecture; these formative dwellings were conceived with a close relationship to

their location. Of Villa Rotunda, Palladio wrote 'the site is as pleasant and delightful

as can be found; because it is upon a small hill...it is encompassed by the most pleasant risings...and therefore...enjoys the most beautiful views from all sides'.

The

building rises out of the landscape and so does Ashley Manor in this very nature.

So,

whilst the principal elevation faces southwards, the siting of this villa, within its extensive, rising grounds is of, arguably, equal significance. Ashley Manor is designated as Grade II\*, and as such is in the top 8% of listed buildings.

Therefore,

greater weight should be given to its conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate,

enhances its significance'.

We acknowledge that significant modern additions (large school-related buildings, as

well as landscape features such as the blue-topped playing surfaces) have eroded

the historically isolated setting of Ashley Manor. Notwithstanding, the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later

development to the north. The application site is clearly associated, historically, with

the villa and that grounds of this extent would be expected with a high-status property.

Following the refusal of applications in 2017 and 2018 for 90 and 69 units respectively, the revised outline application proposes a further reduction in dwelling

numbers to 43 units on the site north of Ashley Manor. The area proposed for development is now pushed towards north-western corner of the site and would include a wide planted screen to the south of the proposed built development.

This

represents a less intensive form of development of the site than the previously schemes. However, we still consider that the severance of the setting of Ashley Manor and the encroachment of development and associated landscaping towards

the Grade II\* building is harmful and an unacceptable quantum and form of development.

The most recent refusal (18/02171/OUT) was dismissed at appeal during the period

of examination of the Cheltenham Plan, with particular reference to allocation site

HD4 (the application site). During inquiry, the Examination Inspector issued post-Hearing advice requiring an amendment to the development boundary in order to safeguard the setting of listed buildings. However, at this time, the Examination Inspector had not agreed the Main Modification for public consultation and the appeal against the refusal of the 2028 application was determined on that basis. When considering the Planning Inspector's comments in the appeal decision in 2018, the importance of the application site to the setting of the Grade II\* building

29 QUEEN SQUARE BRISTOL BS1 4ND

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was reached by taking a range of viewpoints, including those from principal rooms in

Ashley Manor. The Inspector stated that there is 'an historic and visual association

between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I

refer above, I consider that the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed

buildings, as designated heritage assets..... Moreover, the site, rising to the north,

provides a green backdrop to the Manor in distant views (Viewpoint 1 in the Landscape and Visual Assessment.' This enforces our continued view that it is the

entire application site which makes an important contribution to the setting of the Grade II\* building and not just the areas closest to it.

In terms of proposed tree planting as means to screen the development and mitigate

the visual impact, the Appeal Decision makes comment on the proposed screening

along the southern boundary to the site. The Inspector comments that 'by avoiding

built development in the southernmost part of the site, the amended layout mitigates

to some extent the effect of the proposed development on the setting of the westfacing,

former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of

its setting.' The revised application has removed the new planting shown along the

northern side of this boundary on the dismissed scheme. However, a significant tree belt is proposed within a few metres of the boundary which would effectively divorce the visual connection between the carriageway approach to the west elevation of Ashley Manor and its open, green setting beyond. This impact may be demonstrated by some additional analysis of the view presented in Plate 7 (in addition to others) in the Heritage Impact Assessment. We remain very concerned over the visual severance of the open land to the north of Ashley Manor. We understand that subsequent to the Cheltenham Local Plan Inquiry, the Examination Inspector's report of 17th March 2020 approves the Main Modification for HD4: A minimum of 25 dwellings, subject to masterplanning (in accordance with Policy SD4 of the JCS) which demonstrates that development can be achieved whilst accommodating: A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development. We understand that following the Inspector's Report, the council have yet to formally adopt the Cheltenham Plan at this time. While we acknowledge the emerging housing allocation for this site, it must respect the setting of heritage assets. We do not consider that the current proposals achieve an acceptable level of respect to the setting of heritage assets. We therefore advise that significant adjustments are made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent. Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 189 of the NPPF, the significance of the asset's setting requires consideration. Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be. Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm. When considering development that has been identified to affect setting, Historic England's guidance (Historic Environment Good Practice Advice in Planning - Note

3. The Setting of Heritage Assets) should be referred to.

Recommendation

Historic England objects to the application on heritage grounds. We consider that the

application does not meet the requirements of the NPPF, in particular paragraph numbers 193 and 194. .

In determining this application you should bear in mind the statutory duty of section

66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have

special regard to the desirability of preserving listed buildings or their setting or any

features of special architectural or historic interest which they possess and section

38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations

indicate otherwise.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

**Relates Part 3 Question 16**

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**TREE PRESERVATION ORDER**  
**TOWN AND COUNTRY PLANNING ACTS 1971— 4**

**THE BOROUGH OF CHELTENHAM**  
**(WHITEFRIARS SCHOOL)**  
**TREE PRESERVATION ORDER**  
**NO. 1 1981**

The Cheltenham Borough Council in this order called "the authority", in pursuance of the powers conferred in that behalf by section 60 [and section 61] of the Town and Country Planning Act, 1971 (as amended by Section 10 (1) of the Town and Country Amenities Act, 1974), and subject to the provisions of the Forestry Act, 1967, hereby makes the following order:-

1. In this Order

"the Act" means the Town and Country Planning Act, 1971;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and "the Secretary of State" means the [Secretary of State for the Environment].

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule
3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

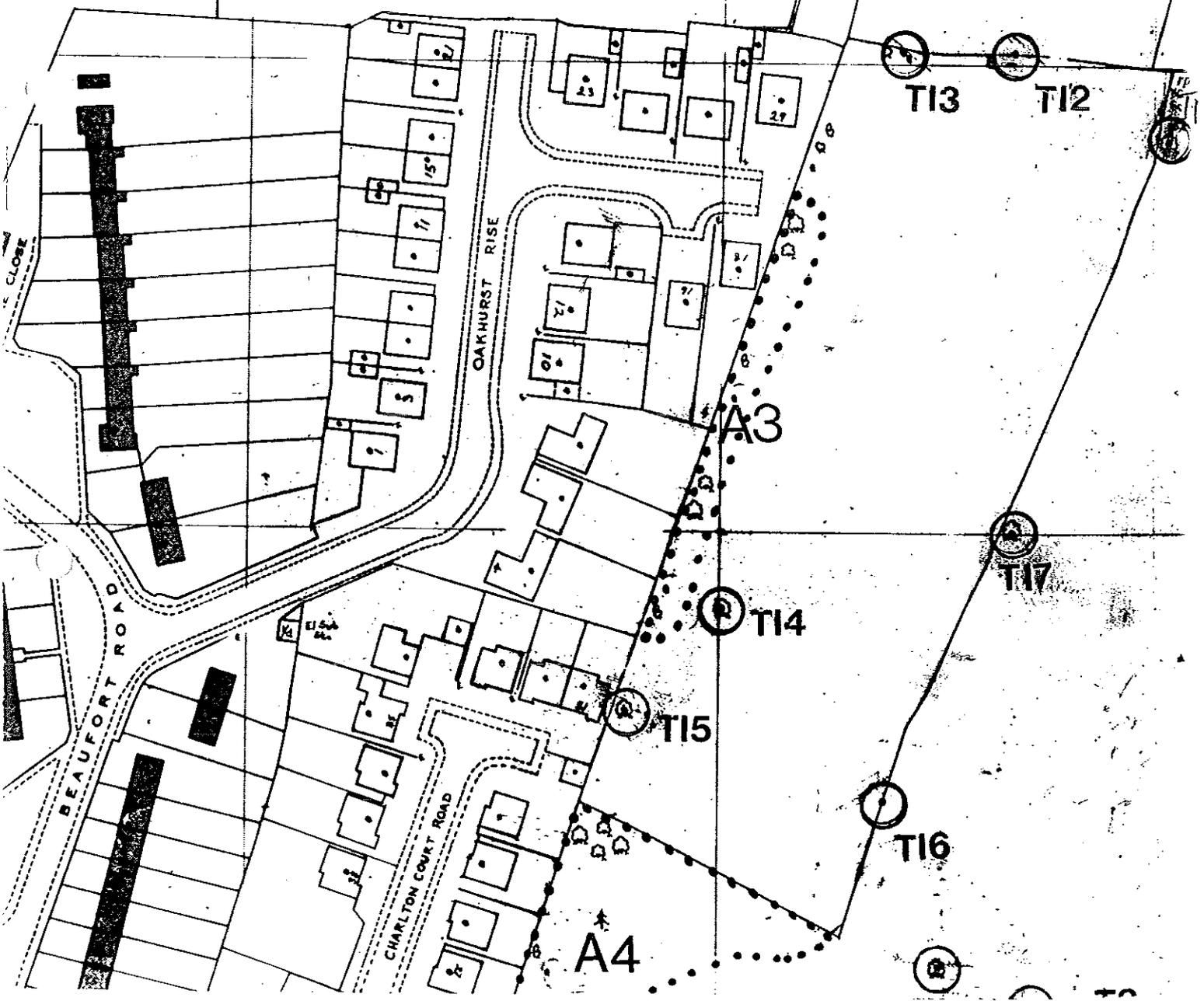
(a) that the refusal or condition is in the interests of good forestry; or

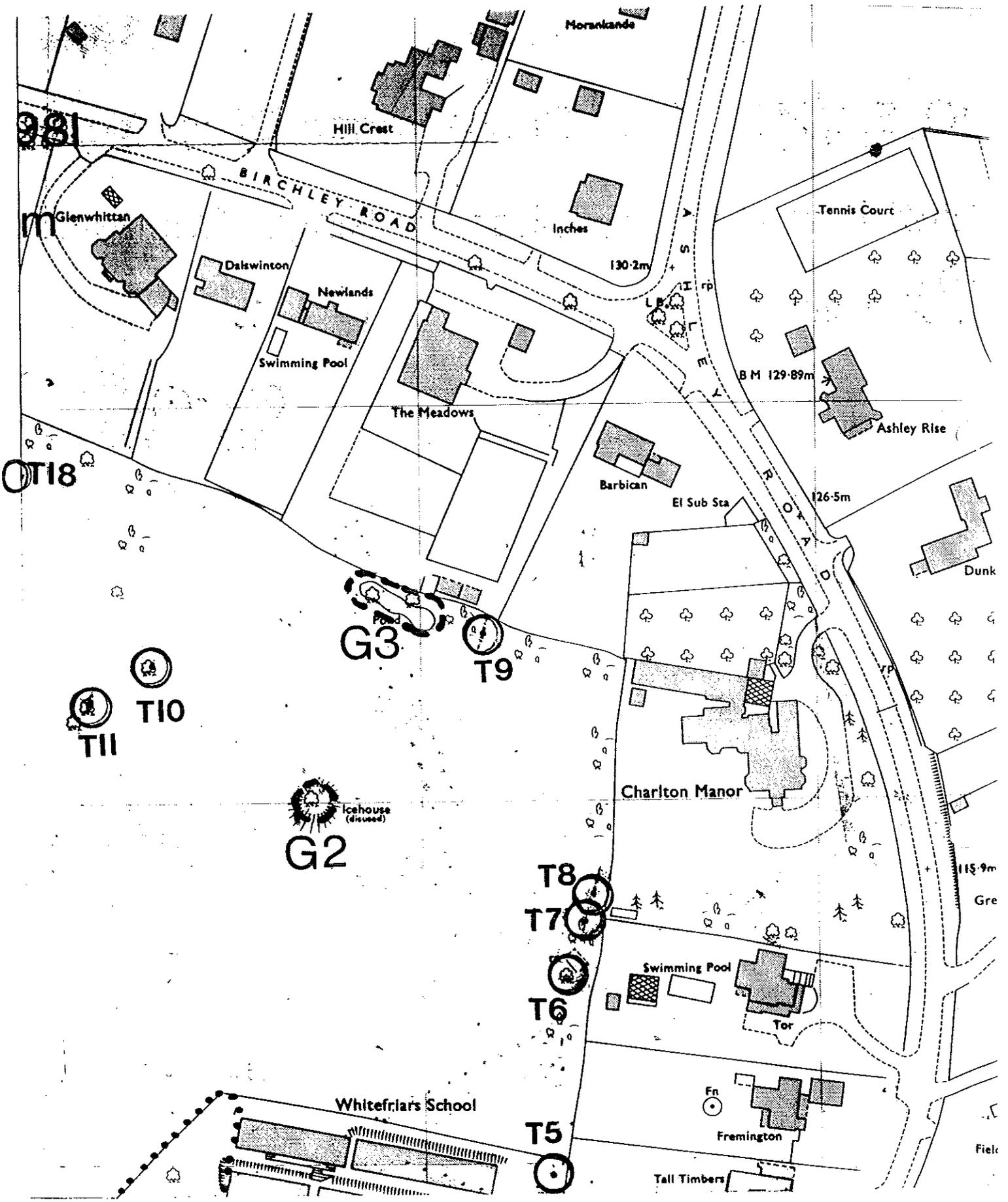
**NOTE:** If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act, 1967, application should be made not to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act

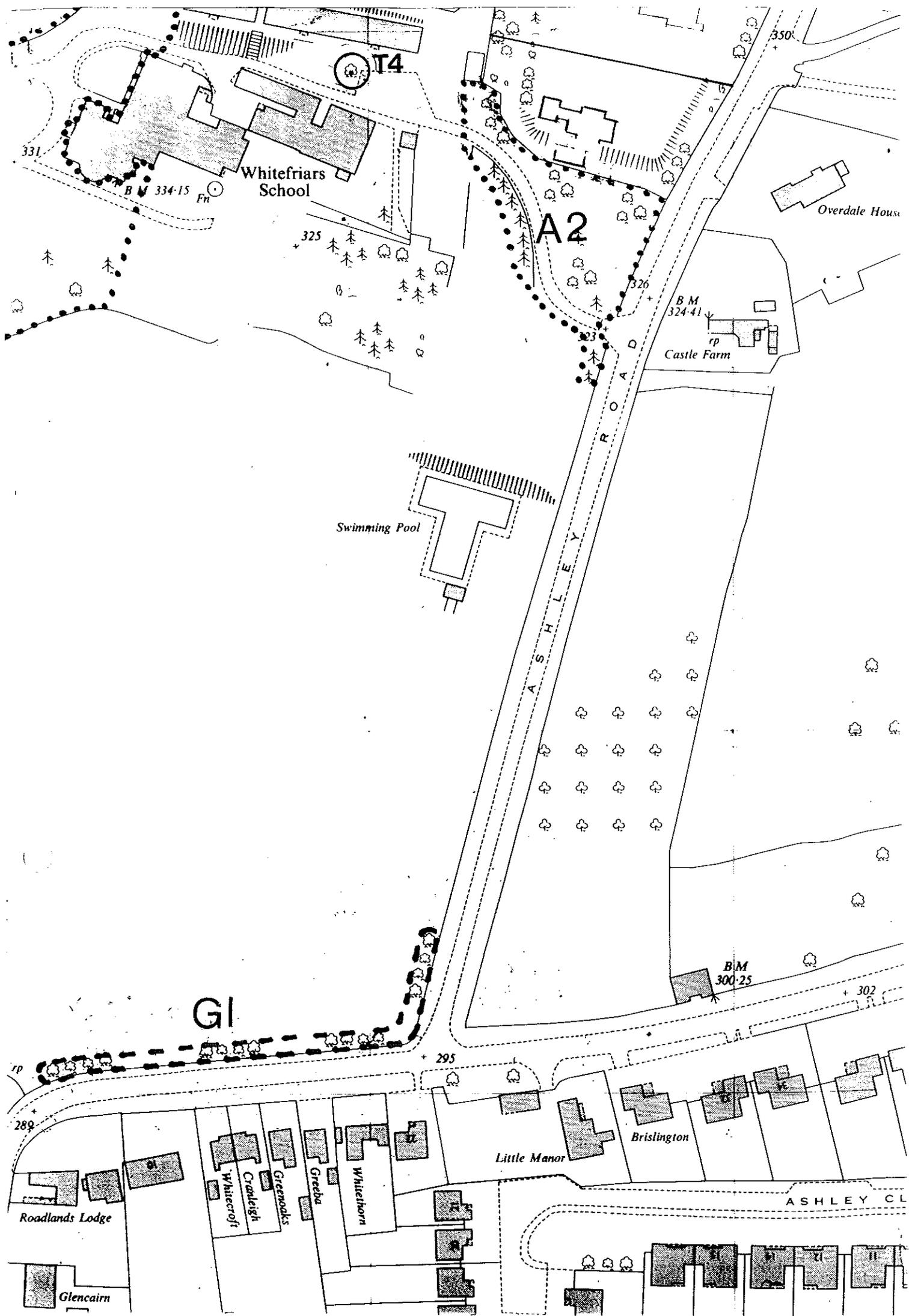
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.
6. - (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless -
- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop under Part III of the Act, or
- (b) the authority with the approval of the Secretary of State dispense with replanting, the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of the Order and section 175 of the Act, replant the said land in accordance with the direction.
- (2) Any direction given under paragraph (1) of this Article may include requirements as to -
- (a) species;
- (b) number of trees per acre (hectare);
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.
7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by a water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April, 1974 exercised the functions in respect of which the byelaw was made, or by a drainage board, in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority, or the drainage board under those byelaws and the condition or direction shall have effect accordingly.
8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.
9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:
- Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.
10. In assessing compensation payable under the last preceding Article account shall be taken of:
- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 of the Act or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Development) Act, 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act, 1932, and
- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.
11. - (1) A Claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the authority and leaving it at or sending it by post to the principal office of the authority.
- (2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the authority, from the date of the decision of the Secretary of State on the appeal.
12. Any question of disputed compensation shall be determined in accordance with the provisions of section 179 of the Act.
13. - The provisions of section 61 of the Act shall apply to this Order and the Order shall take effect on the
- SIXTH* day of *March* 1981.

# TPO 5.4/145 Tree Preservation Order No. 145

## Whitefriars School, Charlton Kings, Cheltenham







331

B.M. 334.15 Fh

Whitefriars School

325

A2

326

B.M. 324.41

Castle Farm

Overdale House

Swimming Pool

ASHLEY ROAD

B.M. 300.25

+ 302

G1

+ 295

289

Roadlands Lodge

Glencairn

Whitecroft

Cradleigh

Greenocks

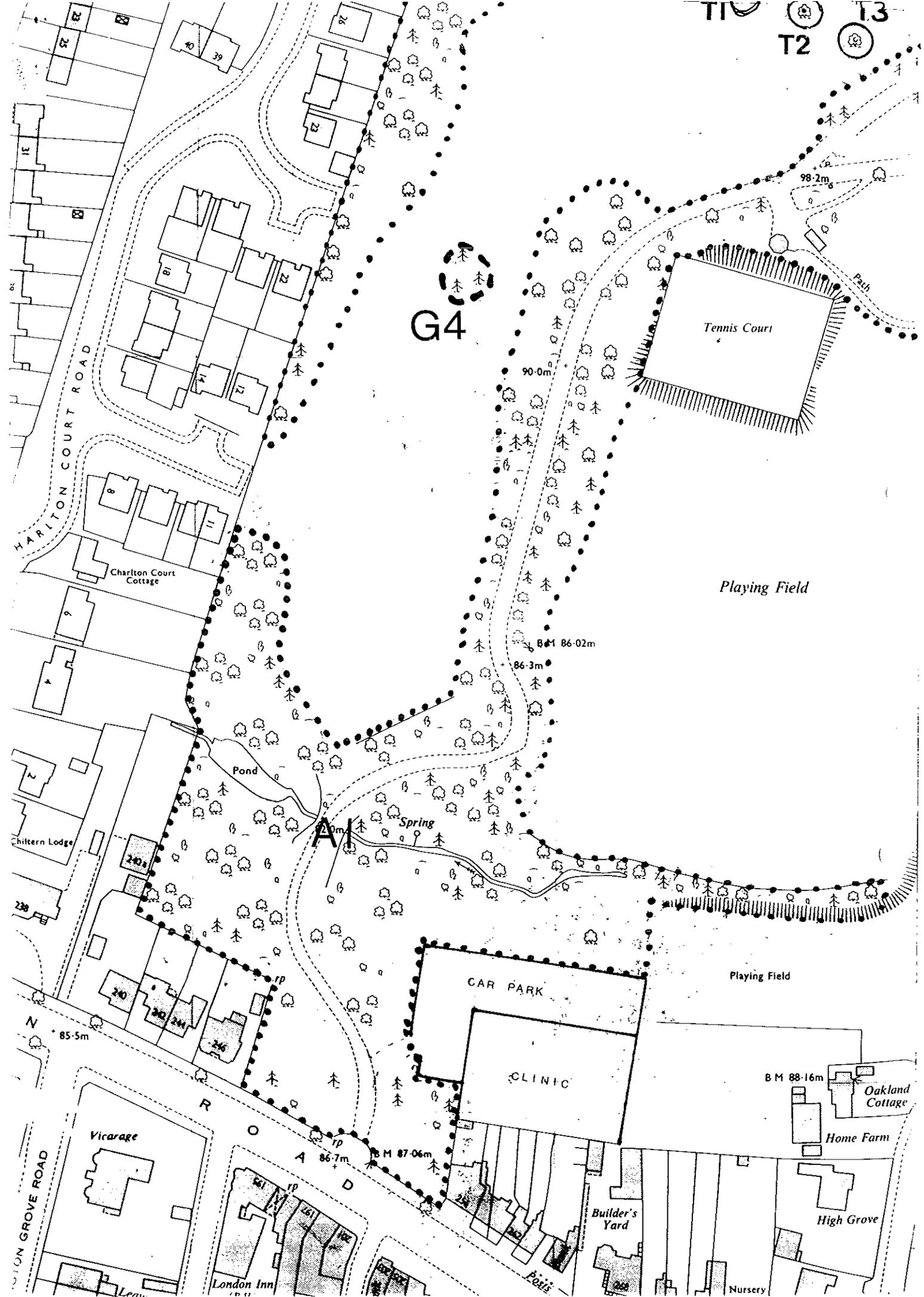
Greeba

Whitehorn

Little Manor

Brislington

ASHLEY CL



T1  
T2  
T3

G4

HARLTON COURT ROAD

Charlton Court Cottage

Tennis Court

Playing Field

Pond

Spring

Chiltern Lodge

CAR PARK

CLINIC

Playing Field

B.M. 88-16m

Oakland Cottage

Home Farm

85.5m

B.M. 86-02m

86.3m

90.0m

98.2m

A

COLTON GROVE ROAD

Vicarage

London Inn

Builder's Yard

Nursery

High Grove

86.7m

B.M. 87-06m

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or twice the sum which appears to the Court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £200 on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 60(6) of the Town and Country Planning Act, 1971, relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispenses with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal etc. should be given to the authority to enable the latter to decide whether or not to dispense with the requirement.

FIRST SCHEDULE  
TREES SPECIFIED INDIVIDUALLY  
(encircled in black on the map)

No. on Map	Description	Situation
T1	Oak	
T2	Oak	
T3	Oak	
T4	Ash	
T5	Oak	
T6	Ash	
T7	Pine	
T8	Pine	
T9	Oak	Within the Grounds of Whitefriars School, Charlton Kings, Cheltenham.
T10	Oak	
T11	Oak	
T12	Ash	
T13	Oak	
T14	Oak	
T15	Oak	
T16	Oak	
T17	Oak	
T18	Oak	

**TREES SPECIFIED BY REFERENCE TO AN AREA**  
(within a dotted black line on the map).

No. on Map	Description	Situation
A1	An area of trees mainly comprising the following species:-  Norway Spruce Plane Portugese Laurel Willow Birch Sequoia Prunus Pissardii Cedars (various) Holm Oak Yew Beech Holly Lime Scotts Pine Cypress Ash Sycamore Horse Chestnut Oak Douglas Fir	Within the grounds of Whitefriars School, Charlton Kings, Cheltenham.
A2	An area of trees mainly comprising the following species:-  Ash Plane Beech Birch Douglas Fir Lime Cypress Horse Chestnut Field Maple	Within the grounds of Whitefriars School, Charlton Kings, Cheltenham.
A3	An area of trees mainly comprising the following species:-  Oak Ash Sycamore	Within the grounds of Whitefriars School, Charlton Kings, Cheltenham.
A4	An area of trees mainly comprising the following species:-  Oak Pine Sycamore Birch Ash	Within the grounds of Whitefriars School, Charlton Kings, Cheltenham.

**GROUPS OF TREES**  
(Within a broken black line on the map)

No. on Map.	Description	Situation
G1	A group of trees comprising:- 12 Poplars 2 Ash	Within the grounds of Whitefriars School, Charlton Kings, Cheltenham.
G2	A group of trees comprising:- 3 Sycamore	
G3	A group of trees comprising:- 3 Oak	
G4	A group of trees comprising:- 5 Scotts Pine	

## SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
  - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
  - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act, 1967 except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree
  - (a) in pursuance of the power conferred on the Post Office by virtue of section 5 of the Telegraph (Construction) Act 1908 and section 21 of the Post Office Act, 1969, or by or at the request of the Post Office where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulations and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking
  - (b) by or at the request of
    - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
    - (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act, 1919 and the Electric Lighting Act, 1882 or interferes or would interfere with the maintenance of working of any such line;
    - (iii) a water authority established under the Water Act, 1973, a drainage board constituted or treated as having been constituted under the Land Drainage Act, 1930, or the Greater London Council, where the tree interferes or would interfere with the exercise of any of the functions of such water authority, drainage board, or Council in relation to the maintenance, improvement or construction of watercourses or of drainage works; or
    - (iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
  - (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
  - (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden;

## THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act, 1971 as adapted and modified to apply to this Order.

33. - (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except insofar as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.

35 - (1) The Secretary of State may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.

35 - (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

35 - (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

35 - (4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which fails to be determined by the authority.

35 - (5) Before determining an application referred to him under this section the Secretary of State shall at either the

applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

36 - (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by their decision on the application or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.

36 - (2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

36 - (3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it has been made to him in the first instance.

36 - (4) Before determining an appeal under this section, the Secretary of State shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

36 - (6) The decision of the Secretary of State on any appeal under this section shall be final.

37. Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either --

- (a) give notice to the applicant of their decision on the application; or
- (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 35 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45 - (1) If it appears to the authority that it is expedient to revoke modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

45 - (2) Subject to the provisions of sections 46 and 61 of the Act an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

45 - (3) Where an authority submit an Order to the Secretary of State for his confirmation under this section, the authority shall furnish the Secretary of State with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Secretary of State, before confirming the Order, shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

45 - (4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed:

Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

45 - (5) Where a notice has been served in accordance with the provisions of subsection (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under subsection (2) of this section.

46 - (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

46 - (2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such

notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

46 - (3) The authority shall also serve notices to the same effect on persons mentioned in subsection (1) above.

46 - (4) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after the publication.

46 - (5) If within the period referred to in subsection (2) (a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in subsection (2) (b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 45 of the Act.

46 - (6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part IV or Part V of the Act.

Given under the Common Seal

of the CHELTENHAM BOROUGH COUNCIL

the *LXX* day of *March* in

the year nineteen hundred and Eighty-one

*Common Seal*

*sgd K.J.S. Hammond* Mayor

*sgd R.A. Scarr* Borough Secretary

The above order  
was confirmed on 5<sup>th</sup> June 1981

Dated

5<sup>th</sup> March

19

THE BOROUGH OF CHELTENHAM  
(WHITEFRIARS SCHOOL)  
TREE PRESERVATION ORDER  
NO. 1, 1981.

TOWN AND COUNTRY PLANNING ACTS  
1971 - 74

**TREE PRESERVATION ORDER**

RELATING TO

Numerous trees of various species situate within  
the grounds of Whitefriars School, Charlton Kings,  
Cheltenham, Gloucestershire.



TPO 5.4/145 Tree Preservation Order No. 1991

Whitefriars School, Charlton Kings, Cheltenham

1:250



**Relates to Part 3 Question 19b**



**Species of conservation importance recorded within the area of search**

Taxon group	Scientific name	Common Name	Grid Reference	Date /Year last recorded	Distance from app point (m)	Location	Species Status
<b>Legally Protected Species - International</b>							
amphibian	Lissotriton vulgaris	Smooth Newt	SO965215	2017-03-09	45	ST EDWARD'S PREP SCHOOL MEADOW	Bern-A3, WACA-Sch5_sect9.5a
amphibian	Bufo bufo	Common Toad	SO96522161	2020-04-30	34	St Edwards School field	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.5a
reptile	Anguis fragilis	Slow-worm	SO96522161	2020-04-30	34	St Edwards School field	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Anguis fragilis	Slow-worm	SO96542162	2020-05-12	48	St Edwards School field	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Anguis fragilis	Slow-worm	SO96552162	2020-05-12	56	St Edwards School field	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Anguis fragilis	Slow-worm	SO96582157	2020-04-05	65	St Edwards School field	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Anguis fragilis	Slow-worm	SO964215	2016	75	Oakhurst Rise, no.1	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Anguis fragilis	Slow-worm	SO966217	2016-04-01	220	Battledown, 29 Oakhurst Rise	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Natrix helvetica	Grass Snake	SO96522161	2020-04-30	34	St Edwards School field	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Natrix helvetica	Grass Snake	SO965215	2015	45	Oakhurst Rise adjacent land, Prep fields	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Natrix helvetica	Grass Snake	SO966217	2011-03-01	220	Battledown, 29 Oakhurst Rise	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Natrix helvetica	Grass Snake	SO966219	2012-06-30	395	Cheltenham, Battledown	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a

reptile	Natrix helvetica	Grass Snake	SO967218	2015	360	Battledown garden	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
reptile	Vipera berus	Adder	SO96472169	2016-07-05	125	Oakhurst Rise, Adjacent land northwest boundary	UK Priority species-2007, Bern-A3, England_NERC_S.41, WACA-Sch5_sect9.1(kill/injuring), WACA-Sch5_sect9.5a
bird	Chroicocephalus ridibundus	Black-headed Gull	SO963214	2014-02-09 to 2014-02-15	215	Grdn, Charlton Kings, Charlton Court Rd	Bird-Amber, CMS_AEWA-A2,
bird	Dendrocopos minor	Lesser Spotted Woodpecker	SO964215	2017	75	Oakhurst Rise, no. 27	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Red
bird	Dendrocopos minor	Lesser Spotted Woodpecker	SO964217	2013-06	185	Cheltenham, Battledown SO9621	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Red
bird	Dendrocopos minor	Lesser Spotted Woodpecker	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Red
bird	Emberiza citrinella	Yellowhammer	SO9621	2020-05-03		St Edwards School field	UK Priority species-2007, Bern-A2, Bird-Red, England_NERC_S.41,
bird	Larus argentatus	Herring Gull	SO963214	2013-01-20 to 2013-01-26	215	Grdn, Charlton Kings, Charlton Court Rd	UK Priority Species 2007, England NERC S.41, Bird-Red, CMS_AEWA-A2,
bird	Larus fuscus	Lesser Black-backed Gull	SO963214	2014-02-23 to 2014-03-01	215	Grdn, Charlton Kings, Charlton Court Rd	Bird-Amber, CMS_AEWA-A2
bird	Milvus milvus	Red Kite	SO964216	2020-05-03	45	St Edwards School field	BirdsDir-A1, CMS_A2, ECCITES-A, RedList_Global_Near Threatened, WACA-Sch1_part1
bird	Milvus milvus	Red Kite	SO965215	2016	45	Oakhurst Rise adjacent land, Prep fields	BirdsDir-A1, CMS_A2, ECCITES-A, RedList_Global_Near Threatened, WACA-Sch1_part1
bird	Prunella modularis	Dunnock	SO9621	2020-05-12		St Edwards School field	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Amber
bird	Prunella modularis	Dunnock	SO961213	2015-03-07	435	Cheltenham, Flat 2 London Road, Grdn	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Amber
bird	Prunella modularis	Dunnock	SO963214	2014-02-23 to 2014-03-01	215	Grdn, Charlton Kings, Charlton Court Rd	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Amber
bird	Prunella modularis	Dunnock	SO967212	2013-02-17 to 2013-02-23	405	Grdn, Charlton Kings, Ashley Close	UK Priority Species 2007, England NERC S.41, Bern-A2, Bird-Amber
bird	Strix aluco	Tawny Owl	SO964216	2020-05-03	45	St Edwards School field	Bern-A2, Bird-Amber, ECCITES-A
bird	Strix aluco	Tawny Owl	SO964217	2017	185	Cheltenham, Battledown SO9621	Bern-A2, Bird-Amber, ECCITES-A
bird	Strix aluco	Tawny Owl	SO965215	2017-02-18	45	ST EDWARD'S PREP SCHOOL MEADOW	Bern-A2, Bird-Amber, ECCITES-A
bird	Sturnus vulgaris	Starling	SO9621	2020-05-12		St Edwards School field	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Sturnus vulgaris	Starling	SO961213	2015-01-17	435	Cheltenham, Flat 2 London Road, Grdn	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Sturnus vulgaris	Starling	SO963214	2014-02-16 to 2014-02-22	215	Grdn, Charlton Kings, Charlton Court Rd	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Turdus philomelos	Song Thrush	SO9621	2020-05-12		St Edwards School field	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Turdus philomelos	Song Thrush	SO961213	2015-02-14	435	Cheltenham, Flat 2 London Road, Grdn	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Turdus philomelos	Song Thrush	SO962212	2013-03-27	430	Charlton Kings	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Turdus philomelos	Song Thrush	SO963214	2015-01-17	215	Charlton Kings, Charlton Court Road, Grdn	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Turdus philomelos	Song Thrush	SO964215	2017	75	Oakhurst Rise no. 29	UK Priority Species 2007, England NERC S.41, Bird-Red,
bird	Turdus pilaris	Fieldfare	SO963214	2012-02-05 to 2012-02-11	215	Grdn, Charlton Kings, Charlton Court Rd	Bird-Red, WACA-Sch1_part1

terrestrial mammal	Chiroptera	Bats	SO964215	2017	75	Oakhurst Rise no. 29	UK Priority species-2007, Bern-A2, Bern-A3, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A2*, HabDir-A4, HabReg-Sch2, All GB RedLists, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Chiroptera	Bats	SO964217	2016	185	Cheltenham, Battledown SO9621	UK Priority species-2007, Bern-A2, Bern-A3, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A2*, HabDir-A4, HabReg-Sch2, All GB RedLists, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Chiroptera	Bats	SO965215	2017	45	Oakhurst Rise, Ashley Manor	UK Priority species-2007, Bern-A2, Bern-A3, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A2*, HabDir-A4, HabReg-Sch2, All GB RedLists, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Chiroptera	Bats	SO966211	2007-09-01	450	18 Ashley Close	UK Priority species-2007, Bern-A2, Bern-A3, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A2*, HabDir-A4, HabReg-Sch2, All GB RedLists, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Eptesicus serotinus	Serotine	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	Bern-A2, CMS_A2, CMS_EUROBATS-A1, HabDir-A4, HabReg-Sch2, RedList_GB_Vulnerable, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Erinaceus europaeus	West European Hedgehog	SO96112131	2015-08-19	485	Battledown, off London Road	UK Priority species-2007, Bern-A3, England_NERC_S.41, RedList_GB_Vulnerable,
terrestrial mammal	Erinaceus europaeus	West European Hedgehog	SO96202139	2015-06-10	365	Urban housing estate, park nearby	UK Priority species-2007, Bern-A3, England_NERC_S.41, RedList_GB_Vulnerable,
terrestrial mammal	Erinaceus europaeus	West European Hedgehog	SO964215	2016	75	Oakhurst Rise, no. 29	UK Priority species-2007, Bern-A3, England_NERC_S.41, RedList_GB_Vulnerable,
terrestrial mammal	Erinaceus europaeus	West European Hedgehog	SO965211	2005-05-15	435	Charlton King's, Greenway Lane	UK Priority species-2007, Bern-A3, England_NERC_S.41, RedList_GB_Vulnerable,
terrestrial mammal	Erinaceus europaeus	West European Hedgehog	SO965213	2015-10-26	235	In our garden in Chalton Kings	UK Priority species-2007, Bern-A3, England_NERC_S.41, RedList_GB_Vulnerable,
terrestrial mammal	Erinaceus europaeus	West European Hedgehog	SO966217	2016-05-01	220	Battledown, 29 Oakhurst Rise	UK Priority species-2007, Bern-A3, England_NERC_S.41, RedList_GB_Vulnerable,
terrestrial mammal	Meles meles	Eurasian Badger	SO964215	2008	75	Oakhurst Rise no. 29	Bern-A3, Protection_of_Badgers_Act_1992
terrestrial mammal	Meles meles	Eurasian Badger	SO964216	2020-05-12	60	St Edwards School field	Bern-A3, Protection_of_Badgers_Act_1992
terrestrial mammal	Meles meles	Eurasian Badger	SO965215	2017-03-04	45	ST EDWARD'S PREP SCHOOL MEADOW	Bern-A3, Protection_of_Badgers_Act_1992
terrestrial mammal	Meles meles	Eurasian Badger	SO965216	2017	80	Oakhurst Rise adjacent land, Prep field	Bern-A3, Protection_of_Badgers_Act_1992
terrestrial mammal	Meles meles	Eurasian Badger	SO965217	2017-02	175	Cheltenham, Battledown SO9621	Bern-A3, Protection_of_Badgers_Act_1992
terrestrial mammal	Meles meles	Eurasian Badger	SO967218	2017-02-01	360	Battledown garden	Bern-A3, Protection_of_Badgers_Act_1992
terrestrial mammal	Meles meles	Eurasian Badger	SO969213	2017-02-12	490	Greenway lane, nr Charlton Kings Cricket Club	Bern-A3, Protection_of_Badgers_Act_1992

terrestrial mammal	Myotis	Unidentified Bat	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	UK Priority species-2007, Bern-A2, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A2*, HabDir-A4, HabReg-Sch2, RedList_GB_Critically Rare, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Nyctalus noctula	Noctule Bat	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	UK Priority species-2007, Bern-A2, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A4, HabReg-Sch2, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Pipistrellus pipistrellus	Common Pipistrelle	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	CMS_A2, CMS_EUROBATS-A1, HabDir-A4, HabReg-Sch2, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Pipistrellus pygmaeus	Soprano Pipistrelle	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	UK Priority species-2007, Bern-A2, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A4, HabReg-Sch2, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Plecotus auritus	Brown Long-eared Bat	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	UK Priority species-2007, Bern-A2, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A4, HabReg-Sch2, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
terrestrial mammal	Rhinolophus hipposideros	Lesser Horseshoe Bat	SO965215	2017	45	Oakhurst Rise adjacent land, Prep fields	UK Priority species-2007, Bern-A2, CMS_A2, CMS_EUROBATS-A1, England_NERC_S.41, HabDir-A2*, HabDir-A4, HabReg-Sch2, WACA-Sch5_sect9.4b, WACA-Sch5_sect9.5a, WACA-Sch5Sect9.4c
<b>Legally Protected and Priority Species - National</b>							
flowering plant	Hyacinthoides non-scripta	Bluebell	SO96522161	30/04/2020	34	St Edwards School field	WACA-Sch8
bird	Alauda arvensis	Skylark	SO9621	2020-04-23		St Edwards School field	UK Priority Species-2007, Bird-Red, England_NERC_S.41
bird	Columba oenas	Stock Dove	SO962212	2013-03-21	430	Charlton Kings	Bird-Amber,
bird	Columba oenas	Stock Dove	SO963214	2015-03-07	215	Charlton Kings, Charlton Court Road, Grdn	Bird-Amber,
bird	Cuculus canorus	Cuckoo	SO9621	2020-05-03		St Edwards School field	UK Priority species-2007, Bird-Red, England_NERC_S.41,
bird	Fringilla montifringilla	Brambling	SO963214	2013-02-24 to 2013-03-02	215	Grdn, Charlton Kings, Charlton Court Rd	WACA-Sch1_part1
bird	Fringilla montifringilla	Brambling	SO964215	2017	75	Oakhurst Rise , no 29	WACA-Sch1_part1
bird	Passer domesticus	House Sparrow	SO9621	2020-05-12		St Edwards School field	UK Priority species-2007, Bird-Red, England_NERC_S.41,
bird	Passer domesticus	House Sparrow	SO965211	2005-05-15	435	Charlton King's, Greenway Lane	UK Priority species-2007, Bird-Red, England_NERC_S.41,
bird	Passer domesticus	House Sparrow	SO967212	2013-02-24 to 2013-03-02	405	Grdn, Charlton Kings, Ashley Close	UK Priority species-2007, Bird-Red, England_NERC_S.41,
bird	Pyrrhula pyrrhula	Bullfinch	SO963214	2014-02-09 to 2014-02-15	215	Grdn, Charlton Kings, Charlton Court Rd	UK Priority Species 2007, England NERC S.41, Bird-Amber,
bird	Pyrrhula pyrrhula	Bullfinch	SO965211	2005-05-15	435	Charlton King's, Greenway Lane	UK Priority Species 2007, England NERC S.41, Bird-Amber,
bird	Turdus iliacus	Redwing	SO963214	2013-01-13 to 2013-01-19	215	Grdn, Charlton Kings, Charlton Court Rd	Bird-Red, WACA-Sch1_part1
<b>Rare, scarce and other locally important species</b>							

**Sites of conservation importance recorded within, or overlapping, the area of search**

**SSSIs**

None present within 500m

**Local Wildlife Sites**

None present within 500m

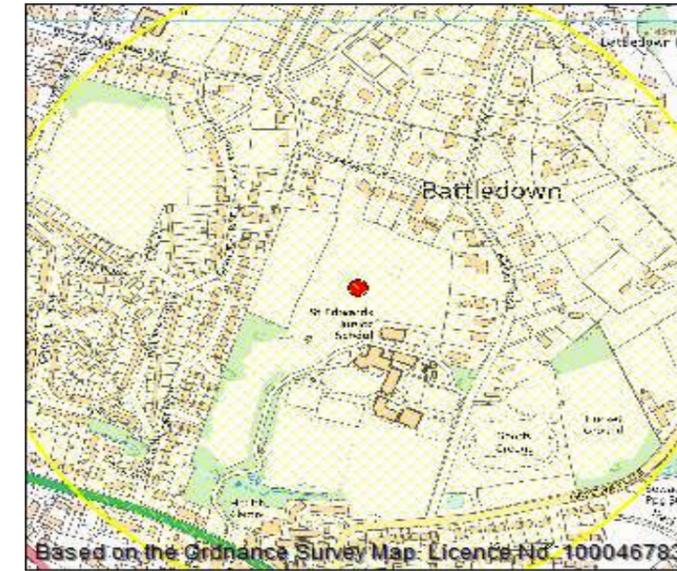
**Conservation Road Verge**

None present within 500m

**Unconfirmed Sites (potential LWS)**

Site name	Reasons for selection	Distance from app point (m)
St Edwards Prep School Meadow	Semi-improved neutral grassland	Within application site

**Search area location**



Date: 05 June 2020  
Our ref: 316064  
Your ref: **20/00683/OUT**



Cheltenham Borough Council  
For the attention of Emma Pickernell

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

**BY EMAIL ONLY**

T 0300 060 3900

Dear Emma

**Planning consultation: Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration**  
**Location: Land Adjacent To Oakhurst Rise Cheltenham**

Thank you for your consultation on the above dated 01 May 2020 which was received by Natural England on the same day. We are sorry for the delay replying.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### **SUMMARY OF NATURAL ENGLAND'S ADVICE**

#### **NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED**

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.
- damage or destroy the interest features for which the Cotswolds and Commons and Beechwoods Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

Mitigation as set out in the Council's Habitats Regulations Assessment (HRA) Appropriate Assessment<sup>1</sup> must be secured.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

<sup>1</sup> Appropriate Assessment report, 24.1.19 – Planning application ref 18/02171/OUT

### **Further advice on mitigation**

Natural England concludes from the submitted ecological appraisal and comments from the County Ecologist that the Council intends to rely on the Habitats Regulations Assessment (Including stage 2 - Appropriate Assessment) produced in respect of a previous planning application for the application site - reference 18/02171/OUT. A copy of the HRA from this previous application should be attached to the submitted documents posted on the Council's website.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

The Homeowner Information Pack should present information describing informal recreation opportunities in the following sequence:

- Public space on your doorstep
- A short drive by car or bus
- Further afield – e.g. The Forest of Dean, the Severn Estuary

The proposed HIP leaflet for Hunts Grove, Quedgeley (produced by Crest Nicholson. Gloucester City Council and FPCR) provides a useful example.

### **Sites of Special Scientific Interest (SSSI)**

SSSIs with public access also exist closer to the application site than the Cotswold Beechwoods SAC. These include:

- Leckhampton Hill and Charlton Kings Common
- Crickley Hill & Barrow Wake
- Cotswold Commons and Beechwoods

In addition, Cleeve Common lies 4.0Km to the north-west.

Education and awareness raising measures designed to address the recreation theme in relation to the European Site described above should be designed to help avoid disturbance to wildlife and encourage awareness of these sites' sensitivities. Provided this holistic approach is taken we do not anticipate adverse effects on these SSSI's notified features.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

## **Other advice**

### **Green infrastructure**

Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

Adopted Joint Core Strategy policy INF3 and the JCS Councils' Green Infrastructure Strategy 2014 refer. Emerging Cheltenham Plan policy GI1 may also be relevant.

Consideration should be given to what opportunities exist to integrate green infrastructure delivery with measures that serve to offer alternative walking, running and cycling routes for new residents. Such measures may form part of a package that positively manages additional recreation pressure on local resources, as well as the SSSIs described above..

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our [Discretionary Advice Service](#).

If you have any queries relating to the advice in this letter please contact me on 07554 459452.

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

Should the proposal change, please consult us again.

Yours sincerely

Antony Muller  
Lead Adviser – West Midlands Planning for a Better Environment Team

## Annex A – Additional advice

Natural England offers the following additional advice:

### Landscape

Paragraph 170 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute Guidelines for Landscape and Visual Impact Assessment](#) for further guidance.

### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. *Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.*

### Protected Species

Natural England has produced [standing advice](#)<sup>2</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)<sup>3</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

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<sup>2</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>3</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

### **Ancient woodland, ancient and veteran trees**

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland [Inventory](#) which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

### **Environmental enhancement**

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
- Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- Planting additional street trees.
- Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

### **Access and Recreation**

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

### **Rights of Way, Access land, Coastal access and National Trails**

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer.

**Biodiversity duty**

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

**Relates to Part 4 Question 20c i**



# CHEL TENHAM

## BOROUGH COUNCIL

Mr Simon Firkins  
SF Planning Ltd  
12 Royal Crescent  
Cheltenham  
Gloucestershire  
GL50 3DA

Our ref: 17/01736/SCREEN  
Planning Officer: Michelle Payne  
Email: [michelle.payne@cheltenham.gov.uk](mailto:michelle.payne@cheltenham.gov.uk)  
Tel: 01242 264313

7th September 2017

Dear Mr Firkins,

**Re: Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

Thank you for your letter received on 31st August 2017 in which you requested that the Local Planning Authority adopt a screening opinion on whether the proposed development on Land off Oakhurst Rise constitutes 'EIA' development under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

The proposed development is for the construction of up to 100 dwellings.

Having considered the proposals as detailed in your letter, Cheltenham Borough Council is of the opinion that the development is not Schedule 1 development. Additionally, although the development is listed in Schedule 2 of the 2017 Regulations (Part 10, Infrastructure Projects, (b) Urban Development Projects) the proposed development is detailed as being for up to 100 dwellings and therefore does not exceed the relevant threshold (more than 150 dwellings) set out in column 2 of Schedule 2. Additionally, the site is not located within a 'sensitive area' as defined by Regulation 2(1). As such, the proposed development is not Schedule 2 development.

Having regard to these criteria, the Local Planning Authority considers that the proposals do not require an Environmental Impact Assessment (EIA).

Yours sincerely

Tracey Crews  
Head of Planning

**Relates Part 5 Question 24a**



# CHELTENHAM

## BOROUGH COUNCIL

The Owner/Occupier

Ddi number: 01242 264140  
Appeal Ref: 20/00021/PP1  
Planning ref: 20/00683/OUT  
Ask For: Helen Thomas  
E-mail: [planningappeals@cheltenham.gov.uk](mailto:planningappeals@cheltenham.gov.uk)

Date: 18th November 2020

Dear Sir/Madam

### TOWN & COUNTRY PLANNING ACT 1990 APPEAL UNDER SECTION 78

**Site at:** Land adjacent Oakhurst Rise, Cheltenham  
**Proposed Development:** Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration  
**Appellant's Name:** Ian Kirby on behalf of William Morrison (Cheltenham) Ltd and the trustees of Carmelite Charitable Trust  
**Appeal Start Date** 12<sup>th</sup> November 2020  
**Planning Inspectorate Reference:** APP/B1605/W/20/3261154

I am writing to let you know that an appeal has been made to the Secretary of State in respect of the above site. The appeal will be determined on the basis of an **inquiry**. The inquiry will open on 23<sup>rd</sup> March 2021 at 10.00 a.m. and is likely to proceed virtually. The inspector will be C Searson MSc PGDip BSc (Hons) MRTPI IHBC.

All further information will be published on our website, available through the below link, published in the Gloucestershire Echo or alternatively telephone 01242 264328.

The procedure to be followed is set out in the Town and Country Planning Appeals (Determination by Inspectors) (Inquiry Procedure) (England) Rules 2000, as amended. Details of the appeal are available for inspection online at [www.cheltenham.gov.uk/publicaccess](http://www.cheltenham.gov.uk/publicaccess). A copy of the Councils response will be completed and available to view within 6 weeks of the Appeal Start Date.

For anyone who wishes to appear at the inquiry on a formal basis, the opportunity is available to apply for Rule 6(6) status. You can find guidance on this at the following link:

<https://www.gov.uk/government/publications/apply-for-rule-6-status-on-a-planning-appeal-or-called-in-application>

If, having read the above guidance, you wish to apply for Rule 6(6) status it is essential that you contact the Planning Inspectorate immediately.

Any comments already made during the processing of the planning application will be forwarded to the Planning Inspectorate. Should you wish to make comments, or withdraw, modify or expand upon your earlier comments in any way you can do so on the Planning Portal at <https://acp.planninginspectorate.gov.uk>. If you do not have access to the internet you can send three copies to **The Planning Inspectorate, 3/J, Temple Quay House, 2 The Square, Bristol BS1 6PN.**

Please note that any representation you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the inspector when determining the appeal.

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#### PLACE AND GROWTH

The inspectorate may publish details of your comments, on the internet (on the appeals area of the Planning Portal). Your comments may include your name, address, e-mail address or phone number. Please ensure that you only provide information, including personal information belonging to you, that you are happy will be made available to others in this way. If you supply information about someone else, please ensure that you have their permission. More detailed information about data protection and privacy matters is available on the Planning Portal.

**All representations must be received by 17<sup>th</sup> December 2020.** Any representations submitted after the deadline will not usually be considered and will be returned. The Planning Inspectorate does not acknowledge representations. **All representations must quote the appeal reference.**

Please note that any representations you submit to the Planning Inspectorate will be copied to the appellant and this local planning authority and will be considered by the Inspector when determining the appeal.

You can get a copy of the one of the Planning Inspectorate's "Guide to taking part in planning appeals" booklets free of charge from GOV.UK at <https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal>

When made, the decision will be published online at <https://acp.planninginspectorate.gov.uk>

Yours faithfully

Mike Holmes: Head of Planning

**Relates to Part 5 Question 24b**

Planning ref: 20/00021/PP1

Date: 18th November 2020

Cedar House  
20B Ledmore Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8RA

Brecon House  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

Brereton House  
Andoversford  
Gloucestershire  
GL54 4JN

46 Pinewood Drive  
Cheltenham  
Gloucestershire  
GL51 0GH

Mount view  
Gretton fields  
Cheltenham  
GL54 5hh

Pages  
Chargrove Lane  
Cheltenham  
GL51 4XB

267 Bath Road  
Worcester  
WR5 3AH

Gray House  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PR

The Flower House  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

21 Gabell Road  
Cheltenham  
Gloucestershire  
GL53 9FA

Southern Lawn

Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

23 Wordsworth Avenue  
Cheltenham  
Gloucestershire  
GL51 7DY

34 Lechlade Road  
Highworth  
SN67HQ

Ancient Trees Forum

Tanglin  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

4 Tivoli Walk  
Cheltenham  
Gloucestershire  
GL50 2UX

2 Norwich Drive  
Cheltenham  
Gloucestershire  
GL51 3HE

Regent House  
Rodney Road  
Cheltenham  
GL50 1HX

154 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8NR

75 Drayton Gardens  
London  
SW10 9QZ

Flat 13  
Osborne Lodge  
99 The Park Cheltenham  
Gloucestershire  
GL50 2RW

Stanley Park  
Selsley

Stroud  
GL5 5LE

40 Pilley Lane  
Cheltenham  
Gloucestershire  
GL53 9ER

26 Hatherley Court Road  
Cheltenham  
Gloucestershire  
GL51 3AG

Highclere  
Cirencester Road  
Birdlip  
GL4 8JL

1 St Margarets Road  
Alderton  
Tewkesbury  
Gloucestershire  
GL20 8NN

Westwell, Main Road  
Shurdington  
Cheltenham  
GL51 4US

Brookford cottage  
Shipton Oliffe  
Cheltenham  
GL544JF

7 Naseby House  
Cromwell Road  
Cheltenham  
Gloucestershire  
GL52 5DT

Wyndways  
104 Charlton Lane  
Cheltenham  
Gloucestershire  
GL53 9EA

43 Hanover Court  
Elkstone Close  
Worcester  
WR4 9XH

37 Salix Court  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3WH

49 Moorend Park Road  
Cheltenham  
Gloucestershire

GL53 0LA

58 Alfred Rd  
Alfred Road  
Feltham  
TW13 5DJ

37 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NL

11 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

32 Barbridge Road  
Cheltenham  
Gloucestershire  
GL51 0BX

Viking  
Walton Lane  
Bosham  
PO18 8QF

60 Mendip Road  
Cheltenham  
Gloucestershire  
GL52 5EF

Hillside  
Undercliff Avenue  
Cheltenham  
Gloucestershire  
GL53 9AA

28 Robert Burns Avenue  
Cheltenham  
Gloucestershire  
GL51 6NT

12 Malleson Road  
Gotherington  
Nr Cheltenham  
Gloucestershire  
GL52 4ER

Valley View House  
Charlton Hill

Cheltenham  
Gloucestershire  
GL53 9NE

37 Pegasus Gardens  
Quedgeley  
Gloucester  
GL2 4NP

The Old Hay Barn  
Bentham  
Cheltenham  
GL51 4TZ

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

5 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

Glenwhittan  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

1 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Flat 4  
11 Montpellier Grove  
Cheltenham  
Gloucestershire  
GL50 2XB

28 Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AE

54 Fairview Street  
Cheltenham  
Gloucestershire  
GL52 2JJ

56 Leighton Road  
Cheltenham  
Gloucestershire  
GL52 6BD

46 The Park  
Northway  
Tewkesbury  
GL20 8RH

Mark Annett & Company  
Hook House  
High Street  
Chipping Campden  
GL55 6AT

Wistley  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

17 Sheens Meadow  
Newnham  
Gloucestershire  
GL14 1BP

21 Chosen Drive  
Churchdown  
Gloucester  
GL3 2QS

Cedar Cottage  
Brimpsfield  
Gloucestershire  
GL4 8ld

18 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

16 Bowen Close  
Cheltenham  
Gloucestershire  
GL52 5EG

2 Fairhaven Street  
Cheltenham  
Gloucestershire  
GL53 7PL

3A Oxford Street  
Cheltenham  
Gloucestershire  
GL52 6DT

Garden Cottage  
Park Street

Cheltenham  
Gloucestershire  
GL50 3NG

15 Old Common  
Minchinhampton  
STROUD  
GL6 9EH

5 The Gables  
Cheltenham  
Gloucestershire  
GL52 6TR

84 Clyde Crescent  
Cheltenham  
Gloucestershire  
GL52 5QL

2 Vineyard Farm Cottages  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

Orchard Bungalow  
Little Shurdington  
Cheltenham  
GL51 4TY

Montrose  
3a Lime Grove  
Welland  
WR13 6LY

4 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

Flat 2  
35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3DU

21 Ravensgate Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NR

15 Mandarin Way  
Cheltenham  
Gloucestershire  
GL50 4RP

Greenmount  
12 Christchurch Road

Cheltenham  
Gloucestershire  
GL50 2PL

34 Wells Close  
Hatherley  
Cheltenham  
Gloucestershire  
GL51 3BX

16 Landsdowne Rd  
Falmouth  
TR11 4BE

Clovelly  
High Street  
Upton St Leonards  
GL4 8DG

8 Detmore Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8QP

Rivers Meet  
Cleeve Mill Lane  
Newent  
GL18 1 DS

60 Church Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AS

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

24 Bushel Close  
Cheltenham  
Gloucestershire  
GL52 3NA

50A King William Drive  
Cheltenham  
Gloucestershire  
GL53 7RP

Flat 4  
Cameron House  
Glencairn Park Road  
Cheltenham  
Gloucestershire  
GL50 2ND

62 Albemarle Gate

Cheltenham  
Gloucestershire  
GL50 4PJ

29 Pennance Road  
Falmouth  
TR11 4ED

Pages  
Chargrove Lane  
Cheltenham  
GL51 4XB

1 st georges square  
Worcester  
Wr1 1HX

Charlton House  
Cirencester Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8ER

Tall Timbers  
Ashley Road  
Charlton Kings  
Cheltenham  
GL52 6NS

32 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

34 Sisson Road  
Gloucester  
GL2 0RA

60  
Haycroft Drive  
Matson  
Gloucestershire  
GL4 6XX

The Firs  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

77 Pilley Crescent  
Cheltenham  
Gloucestershire  
GL53 9ES

7 Sir Charles Irving Close  
Cheltenham  
Gloucestershire  
GL50 2DS

2 Allan House  
Hambrook Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LP

5 Hayman Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 9FD

16 Sandford Mill Road  
Cheltenham  
Gloucestershire  
GL53 7QS

49 Copt Elm Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AG

14 Pembridge Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6XY

39 All Saints Road  
Cheltenham  
Gloucestershire  
GL52 2EY

18 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

23 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

25 Hopwood Grove  
Cheltenham  
Gloucestershire  
GL52 6BX

42 Ravensgate Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NT

Ravenswood

Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PB

29 Birdlip Road  
Cheltenham  
GL52 5AJ

79 Rosehill Street  
Cheltenham  
Gloucestershire  
GL52 6SQ

26 Churchill Drive  
Charlton Kings  
Cheltenham  
GL52 6JJ

4 The Orchards  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6BJ

9 Coronation Flats  
Oak Avenue  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6JF

24 Pentathlon Way  
Cheltenham  
Gloucestershire  
GL50 4SE

Lisvane  
Oakley Road  
Battledown  
Cheltenham  
GL52 6PA

Prince Of Wales Stadium  
Tommy Taylors Lane  
Cheltenham  
GL50 4RN

8 Pine Close  
Ewens Farm  
Charlton Kings  
Cheltenham

10 Southgate Drive  
Cheltenham  
Gloucestershire  
GL53 7QR

105A Charlton Lane  
Cheltenham  
GL53 9EE

44 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RH

18 Oakhurst Rise  
Cheltenham  
GL52 6JU

Faringdon  
4 Langton Grove Road  
Cheltenham  
Gloucestershire  
GL52 6JA

62 Sunrise Avenue  
Cheltenham  
GL52 8EW

209 Cirencester Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8DF

3 Smithwood Grove  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 9JN

16 Murvagh Close  
Cheltenham  
Gloucestershire  
GL53 7QY

Flat 3  
42 Lansdown Crescent  
Cheltenham  
Gloucestershire  
GL50 2NG

51 Sherborne Street  
Cheltenham  
Gloucestershire  
GL52 2JY

17 Station Close  
Cheltenham  
Gloucestershire  
GL53 0AB

12 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

29 Birdlip Road  
Cheltenham  
Gloucestershire  
GL52 5AJ

37 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JN

35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3du

16 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RH

Coversdown  
Birchley Road  
Cheltenham  
Gloucestershire  
GL526NY

60 Bouncers Lane  
Cheltenham  
Gloucestershire  
GL52 5JN

Chalfont House  
61 The Park  
Cheltenham  
Gloucestershire  
GL50 2SA

70 Little Herberts Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8LN

35 Linwell Close  
Cheltenham  
GL50 4SD

9, Twyver Place  
Brockworth  
GL3 4AN

St. Anthony  
Battledown Approach  
Cheltenham  
GL52 6QZ

35 Croft Road  
Charlton Kings

Cheltenham  
Gloucestershire  
GL53 8LD

43 Hatherley Road  
Cheltenham  
GL51 6EB

98 Colesbourne Road  
Cheltenham  
Gloucestershire  
GL51 6DN

Darien  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

Runsell House  
Ashley Road  
Cheltenham  
GL52 6QE

Cherry Tree House  
Fossebridge  
GL54 3JW

7 Bafford Lane  
Cheltenham  
Gloucestershire  
GL53 8DN

31 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

Whitewalls  
30 Charlton Close  
Cheltenham  
Gloucestershire  
GL53 8DJ

Garlands  
34 Cudnall Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8HG

46 School Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8BD

Tanglin  
Oakley Road

Cheltenham  
Gloucestershire  
GL52 6NZ

1 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

26 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JJ

Oakley Lodge  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

Wellswood House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

2 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

223 Cirencester Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8DF

60 Horsefair Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8JH

12 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RH

12 Lyefield Road East  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AY

122 Ryeworth Road  
Charlton Kings  
Cheltenham

Gloucestershire  
GL52 6LY

2 The Orchards  
Glenfall Way  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6BJ

Pine Lodge  
50 East End Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8QL

4 Cleevelands Avenue  
Cheltenham  
Gloucestershire  
GL50 4PS

High Grove Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LA

38 Merlin Way  
Cheltenham  
Gloucestershire  
GL53 0LU

20 Rosehill Street  
Cheltenham  
Gloucestershire  
GL52 6SJ

130 Horsefair Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8JT

House On The River  
22 High Street  
Cheltenham  
Gloucestershire  
GL50 1DZ

Fermain  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

38 Gratton Road  
Cheltenham  
Gloucestershire  
GL50 2BY

10 Hayouze Close  
Bishops Cleeve  
GL52 8SR

49 Gilpin Avenue  
Hucclecote  
Gloucester  
GL3 3DD

38 Gimson Close  
Gloucester  
GL40YQ

The Uplands  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

39 Roman Road  
Abbeymead  
Gloucester  
GL4 5HR

108 Charlton Lane  
Cheltenham  
Gloucestershire  
GL53 9EA

Widecombe  
Harp Hill  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6PU

18 Shrublands  
Cheltenham  
Gloucestershire  
GL53 0ND

Greenfields  
35 The Park  
Cheltenham  
Gloucestershire  
GL50 2SD

15 Battledown Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RD

150 London Road  
Cheltenham  
Gloucestershire  
GL52 6HJ

51 Buckles Close  
Charlton Kings  
Cheltenham

Gloucestershire  
GL53 8QT

99 Cirencester Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8DB

7 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JW

Sandhurst Villas  
Sandhurst Road  
Cheltenham  
Gloucestershire  
GL52 6LJ

7 Pilford Close  
Cheltenham  
Gloucestershire  
GL53 9HA

3 Coxhorne Cottage  
London Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6UY

20 Greenhills Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 9EB

59 Cirencester Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8EX

34 Sisson Road  
GL2 0RA

8 Montpellier Drive  
Cheltenham  
Gloucestershire  
GL50 1TX

10 Arthur Bliss Gardens  
Cheltenham  
Gloucestershire  
GL50 2LN

25 Beaufort Road  
Charlton Kings

Cheltenham  
Gloucestershire  
GL52 6JS

65 Ryeworth Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LS

7 Chester House  
St Georges Place  
Cheltenham  
Gloucestershire  
GL50 3RE

72 Bafford Approach  
Cheltenham  
Gloucestershire  
GL53 9JB

41 Ryeworth Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LG

8 Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JG

34 Griffiths Avenue  
Cheltenham  
Gloucestershire  
GL51 7BL

69 Ryeworth Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LS

40 Ravensgate Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NT

The Ridge  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

2 Coronation Flats  
Oak Avenue  
Charlton Kings Cheltenham  
Gloucestershire

GL52 6JF

10 Robinia Close  
Cheltenham  
Gloucestershire  
GL53 8PR

35 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JN

112 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NX

The Willows  
Ham Square  
Cheltenham  
Gloucestershire  
GL52 6NF

29 Charlton Close  
Cheltenham  
Gloucestershire  
GL53 8DH

1 Moorend Glade  
Cheltenham  
Gloucestershire  
GL53 9AT

364 Old Bath Road  
Cheltenham  
Gloucestershire  
GL53 9AF

3 Christchurch Road  
Cheltenham  
Gloucestershire  
GL50 2NY

1 Langton Grove Road  
Cheltenham  
Gloucestershire  
GL52 6JA

25 Parkwood Grove  
Cheltenham  
Gloucestershire  
GL53 9JW

21 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JN

165 Cirencester Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8DB

32 Copt Elm Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AH

6 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

78 Ryeworth Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LT

Zetland House  
25 Noverton Lane  
Prestbury Cheltenham  
Gloucestershire  
GL52 5DD

32 Brookway Road  
Charlton Kings  
Cheltenham  
GL53 8HD

12 Malvern Street  
Cheltenham  
Gloucestershire  
GL51 9DG

1 High Bank  
Shipton Oliffe  
Cheltenham  
GL54 4JE

126 Ryeworth Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LY

Flat 1  
67 Shurdington Road  
Cheltenham  
Gloucestershire  
GL53 0JG

5 School Mead  
Cheltenham

Gloucestershire  
GL51 8AD

6 Deep Street  
Prestbury  
Cheltenham  
Gloucestershire  
GL52 3AN

14 Chatsworth Drive  
Cheltenham  
Gloucestershire  
GL53 0AG

1 High Bank  
Shipton Oliffe  
Gloucestershire  
GL54 4JE

11 Faringdon Road  
Cheltenham  
Gloucestershire  
GL51 6NZ

8 Chase Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YU

Pickering House  
Orchard Road  
Winchcombe  
GL54 5QB

11 Appleton Way  
Hucclecote  
Gloucestershire  
GL3 3RP

48 Raleigh Close  
Churchdown  
GL3 1NT

78 - 80 High Street  
Cheltenham  
Gloucestershire  
GL50 1EG

78 Jacobs Piece  
Fairford  
GL7 4FJ

31 Bafford Lane  
Cheltenham  
Gloucestershire  
GL53 8DN

33 Great Western Terrace  
Cheltenham

Gloucestershire  
GL50 3QX

Hillview House  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

155 Cirencester Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8DB

1A Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AD

19 Lawrence Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NN

55 Bafford Approach  
Cheltenham  
Gloucestershire  
GL53 9JF

33 Park Place  
Cheltenham  
Gloucestershire  
GL50 2RE

27 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JN

25 Longway Avenue  
Cheltenham  
Gloucestershire  
GL53 9JH

Rye House  
12 Hambrook Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LW

4 Brook Vale  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JD

The Hearne  
12 Hearne Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8RD

Penn House  
Tivoli Road  
Cheltenham  
Gloucestershire  
GL50 2TF

30 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

Woodlands  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

Ashley House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

1 Water Lane  
Cheltenham  
Gloucestershire  
GL52 6YD

1 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JE

5 The Old Marketplace  
Andoversford  
GL54 4AY

Glamara  
Ashley Road  
Cheltenham  
GL52 6PG

4 Church Street  
Charlton Kings  
Cheltenham  
GL53 8AR

51 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire

GL53 8NL

9 Hamilton Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8HN

Balcarras School  
East End Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8QE

Field House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

14 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

Chiltern Lodge  
Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

1 The Orchards  
Glenfall Way  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6BJ

1 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

3 Coxhorne Cottage  
London Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6UY

9 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

34 Chase Avenue  
Charlton Kings

GL52 6YU

Charlton Court Cottage  
7 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

15 Ash Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8PW

14 Copt Elm Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AB

1 Giffard Way  
Leckhampton  
Cheltenham  
Gloucestershire  
GL53 0PW

80 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NU

9 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JW

10 Warwick Crescent  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YZ

24 Castlefields Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YR

8 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

8 Pine Close  
Charlton Kings  
Cheltenham

Gloucestershire  
GL52 6JR

5 The Gables  
Cheltenham  
Gloucestershire  
GL52 6TR

263A Old Bath Road  
Cheltenham  
Gloucestershire  
GL53 9EF

Sisson Road  
Gloucester  
GL2 0RA

133 New Barn Lane  
Cheltenham  
Gloucestershire  
GL52 3LQ

Nutfield Ridge  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PE

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

36 Suffolk Parade  
Cheltenham  
Gloucestershire  
GL50 2AD

40 Pilley Lane  
Cheltenham  
Gloucestershire  
GL53 9ER

Flat 4  
Cameron House  
Glencairn Park Road Cheltenham  
Gloucestershire  
GL50 2ND

Willoughby  
1 Suffolk Square  
Cheltenham  
Gloucestershire  
GL50 2DR

Flat 5  
Cameron House  
Glencairn Park Road Cheltenham  
Gloucestershire

GL50 2ND

1 Prinbox Works  
Saddlers Lane  
Tivoli Walk Cheltenham  
Gloucestershire  
GL50 2UX

Brereton House  
Stow Road  
Andoversford  
Cheltenham  
Gloucestershire  
GL54 4JN

2 Imperial Square  
Cheltenham  
Gloucestershire  
GL50 1QB

216 Leckhampton Road  
Cheltenham  
Gloucestershire  
GL53 0AW

Southern Lawn  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Flat 4  
35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3DU

42 Brookway Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8HD

14 Henry Crescent  
Walton Cardiff  
Tewkesbury  
GL20 7TN

Sunnyhill  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

19 Glenfall Street  
Cheltenham  
Gloucestershire  
GL52 2JA

29 Galileo Gardens

Cheltenham  
Gloucestershire  
GL51 0GA

12 Malleson Road  
Gotherington  
Cheltenham  
Gloucestershire  
GL52 4ER

65 Malleson Road, Gotherington  
Cheltenham  
GL52 9EX

Flat 3  
67 Shurdington Road  
Cheltenham  
Gloucestershire  
GL53 0JG

Spinnaker House  
Spinnaker Road  
Gloucestershire  
GL2 5FD

153 Prestbury Road  
Cheltenham  
GL52 2DU

31 Charlton Close  
Cheltenham  
Gloucestershire  
GL53 8DH

The Villa  
Great Witcombe  
GL3 4TS

Pelham Lodge  
Back Lane  
Malvern  
WR14 2HJ

163 London Road  
Cheltenham  
Gloucestershire  
GL52 6HN

1 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

1 the cottage  
piccadilly  
cheltenham  
gl54 5uu

26 Bracken Way  
Malvern

WR14 1JH

Greenacres  
Madresfield Road  
Malvern  
WR13 5AS

77 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

15 Selkirk Street  
Cheltenham  
Gloucestershire  
GL52 2HJ

45 Eldon Road  
Cheltenham  
Gloucestershire  
GL52 6TX

7 Bath Mews  
Bath Parade  
Cheltenham  
Gloucestershire  
GL53 7HL

Smith Barn  
Bentham Lane  
Cheltenham  
GL51 4TZ

15 Castle Street  
Worcester  
WR1 3AD

1A Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

12 Royal Crescent  
Cheltenham  
GL50 3DA

11 Wimborne Close  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3QP

84 Church Road  
Leckhampton  
Cheltenham  
Gloucestershire  
GL53 0PD

111 St Georges Road

Cheltenham  
Gloucestershire  
GL50 3ED

33 Hales Road  
Cheltenham  
Gloucestershire  
GL52 6SL

5E Deer Park Business Centre  
Eckington  
Pershore  
Worcestershire  
WR10 3DN

4 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

31 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JN

23 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

2 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

29 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

82 Rosehill Street  
Cheltenham  
Gloucestershire  
GL52 6SJ

Greenmount  
12 Christchurch Road  
Cheltenham  
Gloucestershire  
GL50 2PL

18 Selkirk Gardens  
Cheltenham  
Gloucestershire  
GL52 5LX

58 Bouncers Lane  
Cheltenham  
Gloucestershire  
GL52 5JN

Hillview House  
Hambrook Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LW

4 Charlton Park Drive  
Cheltenham  
Gloucestershire  
GL53 7RX

17 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JN

Outwoods  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QJ

Hilcot  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

Castle Farm  
Ashley Rd  
Cheltenham  
Gloucestershire  
GL52 6NU

Flat 4  
Stanmer House  
Lypiatt Road Cheltenham  
Gloucestershire  
GL50 2QJ

5 Roosevelt Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JL

8A Linden Avenue  
Prestbury  
Cheltenham  
Gloucestershire  
GL52 3DP

11A Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JH

22 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

1 Southfield Manor Park  
Sandy Lane  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 9DJ

10 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

Coversdown  
Birchley Road  
Cheltenham  
Gloucestershire  
GL526NY

16 Naunton Park Road  
Cheltenham  
Gloucestershire  
GL53 7DQ

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

Back Walls  
Stow-on-the-Wold

21 Cakebridge Road  
Cheltenham  
Gloucestershire  
GL52 3HL

23 Sandy Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 9DF

Tor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

14 Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LB

Arden House  
232 London Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6HW

46 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RH

85 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RG

3 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JE

10 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

13 Brookvale  
Charlton Kings  
Cheltenham  
GL52 6JD

25 Hillview Lane  
Twyning  
GL20 6JW

Greenacre  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

3 The Orchards  
Glenfall Way  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6BJ

33 Brookway Road

Charlton Kings  
Cheltenham  
GL53 8HF

Overdale House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

High Trees  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Fieldway  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Oakfield House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Oakfield Cottage  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Oakfield Stables  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Dunkeld  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Ashley Rise  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Ashley Court  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

Ash Tree House  
Birchley Road

Cheltenham  
Gloucestershire  
GL52 6NY

Pinewood  
12 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

Bradgate House  
7 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

9 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

11 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

21 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

19 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

17 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

15 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

11 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

9 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

7 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

5 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

3 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

33 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

34 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

35 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

36 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

37 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

38 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

38A Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

38B Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

40 Charlton Court Road

Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

39 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

Cheltenham Studio Apartment  
39 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire

Claire Cottage  
32 The Avenue  
Cheltenham  
Gloucestershire  
GL53 9BL

15 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

5 Glynrosa Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8QR

54 King William Drive  
Cheltenham  
Gloucestershire  
GL53 7RP

7 St Judes Walk  
Cheltenham  
Gloucestershire  
GL53 7RU

45 Beaufort Road  
Charlton Kings  
Cheltenham  
GL52 6JS

5 Coronation Flats  
Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JF

98 Rosehill Street  
Cheltenham

Gloucestershire  
GL52 6SJ

57 Bournside Road  
Cheltenham  
Gloucestershire  
GL51 3AL

8 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

9 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

10 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

11 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

14 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

12 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

Flat 1  
St Edwards Infants And Junior School  
252 London Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NR

St Edwards Infants And Junior School  
252 London Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NR

Fairfax Court

Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NF

Tall Timbers  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

Fremington  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

Savoy House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

Barbican  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

The Meadows  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Newlands  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Dalswinton  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Glenwhittan

Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Silver Trees  
14 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

29 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

27 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

25 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

23 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

14 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

16 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

14A Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AD

9 Alexandria Walk  
Cheltenham  
Gloucestershire  
GL52 5LG

12 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

1 Churchill Gardens  
Churchill Drive  
Charlton Kings Cheltenham

Gloucestershire  
GL52 6JH

2 Ratcliff Lawns  
Southam  
Cheltenham  
GL52 3PA

11 Ashley Road  
Charlton Kings  
Cheltenham  
GL52 6LF

29 Oakhurst Rise  
Cheltenham  
GL52 6JU

16 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

4 Home Farm Court  
Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LA

15 Hillview Road  
Cheltenham  
Gloucestershire  
GL52 5AE

The School Bursary  
Cirencester Road  
Charlton Kings  
Cheltenham  
GL53 8EY

Little Orchard  
Charlton Drive  
Cheltenham  
Gloucestershire  
GL53 8ES

8 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

6 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

4 Oakhurst Rise  
Cheltenham  
Gloucestershire

GL52 6JU

32 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

31 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

30 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

29 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

28 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

27 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

26 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

25 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

24 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

23 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire

GL52 6JB

19 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

20 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

21 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

22 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

11 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JW

15 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

20 Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JJ

36 Cudnall Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8HG

12 Southgate Drive  
Cheltenham  
Gloucestershire  
GL53 7QR

12 Beaufort Road  
Charlton Kings  
Cheltenham  
GL52 6JT

71 Southgate Drive  
Cheltenham  
Gloucestershire  
GL53 7QR

25 Brook Vale  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JD

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Oak Lodge  
Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

Birchfield  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

Inches  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

Hillcrest  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

Kerrymead  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

The Water Garden  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

The Paddocks  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

244 London Road

Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6HS

Highcroft  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

19 Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JG

Coversdown Birchley  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

10 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

Hilcot  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

Cheltenham House  
Clarence Street  
Cheltenham  
Gloucestershire

60 Suffolk Road  
Cheltenham  
Gloucestershire  
GL50 2AQ

Chota Koti  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

46 The Park  
Northway  
Tewksbury

GL20 8RH

94 Barnwood Avenue  
Gloucester  
GL4 3AJ

6 St David's Close  
Tuffley  
Gloucester  
GL4 0PX

2 Apple Close  
Prestbury  
Cheltenham  
Gloucestershire  
GL52 3EJ

6 Rotunda Terrace  
Montpellier Street  
Cheltenham  
Gloucestershire  
GL50 1SW

119B Bath Road  
Cheltenham  
Gloucestershire  
GL53 7LS

58 Shurdington Road  
Cheltenham  
Gloucestershire  
GL53 0JE

Earls Croome Court  
Church Lane  
Worcestershire  
WR8 9DE

Redstart House  
Battledown Approach  
Cheltenham  
Gloucestershire  
GL52 6RE

25 Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AE

Redstart House  
Battledown Approach  
Cheltenham  
Gloucestershire  
GL52 6RE

Battledown View  
Oakley Road  
Cheltenham  
Gloucestershire

GL52 6PA

1 Blacksmiths Road  
Alderton  
Tewkesbury  
Gloucestershire  
GL20 8NW

12 Goldsmith Road  
Cheltenham  
GL51 7RT

1 glebeland  
Egerton  
Kent  
Tn27 9dh

Basement Flat  
Northwick House  
Douro Road Cheltenham  
Gloucestershire  
GL50 2PF

6 Cambrian Road  
Surrey  
TW10 6JQ

41 Marleyfield Way  
Churchdown  
Gloucester  
GL3 1JW

Hewden Hire Centre Ltd  
Kingsditch Lane  
Cheltenham  
Gloucestershire  
GL51 9NE

10 Wordsworth Avenue  
Cheltenham  
Gloucestershire  
GL51 7DY

Haytor  
65 Harp Hill  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6PR

4 Woodgate Close  
Cheltenham  
Gloucestershire  
GL52 6UW

77 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

57 Bafford Lane

Cheltenham  
Gloucestershire  
GL53 8DN

4 College Road  
Cheltenham  
Gloucestershire  
GL53 7HX

57 Burton Street  
Cheltenham  
Gloucestershire  
GL50 3NE

2 Coln Rise  
Andoversford  
CHELTENHAM  
GL54 4HL

34 Tommy Taylors Lane  
Cheltenham  
Gloucestershire  
GL50 4NJ

3 Manor Park  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3HU

14 Butterfield Court  
Bishops cleeve  
Cheltenham  
GL528rz

8 Station Street  
Cheltenham  
Gloucestershire  
GL50 3LX

First Floor  
3 Lansdown Crescent  
Cheltenham  
Gloucestershire  
GL50 2JY

Cottsway House  
Heynes Place  
Avenue Two  
Witney  
OX28 4YG

**Relates to Part 5 Question 24c**



# CHEL TENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Planning Committee

Thursday, 17 September 2020  
2.30 pm

Virtual WEBEX video conference via YouTube -  
<https://www.youtube.com/user/cheltenhamborough>

Membership	
<b>Councillors:</b>	Garth Barnes (Chair), Paul Baker (Vice-Chair), Dilys Barrell, Mike Collins, Stephen Cooke, Bernard Fisher, Paul McCloskey, Tony Oliver, John Payne, Diggory Seacome and Simon Wheeler

The Council has a substitution process and any substitutions will be announced at the meeting

### Important Notice

#### FILMING, RECORDING AND BROADCASTING OF PLANNING COMMITTEE MEETINGS

This virtual meeting will be recorded by the council for live broadcast online at [www.cheltenham.gov.uk](http://www.cheltenham.gov.uk) and [www.youtube.com/user/cheltenhamborough](http://www.youtube.com/user/cheltenhamborough). At the start of the meeting the Chair will confirm this.

If you make a representation to the meeting you are consenting to the use of those sound recordings for broadcasting and training purposes.

### Agenda

- 1. APOLOGIES**  
Councillor Cooke.
- 2. DECLARATIONS OF INTEREST**
- 3. DECLARATIONS OF INDEPENDENT SITE VISITS**
- 4. MINUTES OF LAST MEETING** (Pages 7 - 12)  
Minutes of the meeting held on 20<sup>th</sup> August 2020
- 5. PLANNING/LISTED BUILDING/CONSERVATION AREA CONSENT/ADVERTISEMENT APPLICATIONS, APPLICATIONS FOR LAWFUL DEVELOPMENT**

**CERTIFICATE AND TREE RELATED APPLICATIONS –  
SEE MAIN SCHEDULE**

6. **20/00683/OUT LAND ADJACENT TO OAKHURST RISE  
CHELTENHAM** (Pages 13 - 354)  
[Planning Application Documents](#)
7. **20/01223/CONDIT THE QUADRANGLE, IMPERIAL  
SQUARE, CHELTENHAM** (Pages 355 - 370)  
[Planning Application Documents](#)
8. **20/01041/FUL 4 MOOREND GLADE, CHELTENHAM,  
GLOUCESTERSHIRE** (Pages 371 - 386)  
[Planning Application Documents](#)
9. **APPEAL UPDATES** (Pages 387 - 388)  
Details of the current appeals that have been lodged.
10. **ANY OTHER ITEMS THE CHAIRMAN DETERMINES  
URGENT AND REQUIRES A DECISION**

**Contact Officer:** Democratic Services,  
**Email:** [democraticservices@cheltenham.gov.uk](mailto:democraticservices@cheltenham.gov.uk)



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## Planning Committee

Thursday, 20th August, 2020

2.00 - 3.30 pm

Attendees	
<b>Councillors:</b>	Councillor Garth Barnes (Chair), Councillor Paul Baker (Vice-Chair), Councillor Dilys Barrell, Councillor Stephen Cooke, Councillor Bernard Fisher, Councillor Paul McCloskey, Councillor Tony Oliver, Councillor John Payne, Councillor Diggory Seacome and Councillor Simon Wheeler
<b>Officers in Attendance:</b>	Craig Hemphill (Principal Planning Officer), Michelle Payne (Senior Planning Officer), Claire Donnelly (Planning Officer) & One Legal representative

### 1. Apologies

Councillor Barnes thanked Councillor Baker for standing in as Chair at the last few meetings. He reminded Members that the meeting was being live-streamed, and that they must be present for the whole debate in order to vote. He advised those present that the officer presentations were can be viewed on the website, and checked that the public speakers were present.

Apologies were received from Councillor Collins.

Councillor Barrell joined the meeting midway through item 5b and as such was advised to abstain on the vote.

### 2. Declarations of Interest

**Mendip, Tryes Road:** Councillor Barrell is a member of SPJARA, the residents' group which has commented on the application, but she has not been involved in their discussions or consideration.

### 3. Declarations of independent site visits

**Mendip, Tryes Road:** Councillors Barrell, Oliver, Cooke and McCloskey.

### 4. Minutes of last meeting

Councillor Barnes signed the minutes as a true and correct record.

### 5. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule

There were none.

### 6. 20/00552/FUL Car Park, Chester Walk,

The senior planning officer introduced the application for an innovation hub in the town centre, a revised application following permission granted in June 2019, to be situation in the car park to the rear of the children's library to the east of the Grade 1-listed St Mary's Church. It is part of a wider masterplan to improve access connectivity and footfall to the church grounds and lower High Street, which has been awarded a government funding grant. The current proposal has a similar profile to the approved scheme, but is now a modular construction rather built with shipping containers. The industrial aesthetic is retained. As the principle is already established and highways matters have been addressed, the main issues to consider are the impact on the surrounding heritage assets. Both Historic England and CBC's conservation officer have concerns, but these only focus

on the heritage impact; the planning officer has to take all material planning considerations into account. Having done so, the recommendation is to permit, subject to the conditions set out in the report.

### **Public Speaking:**

i. Jason Pritchard, agent, in support, outlined the main difference between the previously approved project and the current scheme – the modular construction. He said the lay-out would be broadly the same, but there is now a single point of entry orientated towards the west door of the Minster, with new seating, lighting and footpaths to open up the area. The design is contemporary in nature but subservient to the minster, and the building will be highly sustainable, benefitting from additional investment from the Government's 'Build Better Fund'. It will host and facilitate a variety of initiatives that will have a positive economic, educational, cultural, social and environmental impact on the town, and act as a catalyst to major improvements to the area, as well as being a vital frontier outpost to Cyber Cheltenham.

ii. Cllr Hay, in support, said that the scheme will transform a run-down, under-utilised part of town, which suffers significant anti-social behaviour problems, not helped by poor linkages and high buildings. She told Members that £3.114m of government money will help deliver this scheme together with a programme of additional benefits to the area. It will provide jobs, co-working space for the fast-growing cyber and creative sectors, and a much-needed flexible performance space. The scheme is part of the Council's wider ambition and corporate priority to make Cheltenham the cyber capital of the UK, and provide much-needed opportunities which will support the town and the council's financial and economic recovery. The government funding is contingent on planning consent being granted, and requires schemes to be completed by December 2021. The application complies with the three key principles of the NPPF – economic, social and environmental objectives, and Members must give weight to these important planning issues.

### **Member Questions**

In response to Members' questions, the senior planning officer confirmed that:

- The applicants have remained in close contact with the Minster throughout, and Diocese continues to support the project;
- The main entrance to the building will be situated in the east elevation, as with the approved scheme;
- There are no specific details regarding the use of the arena, but it will presumably be used for a variety of performances.

### **Member debate**

Councillor Seacome noted that there is not much room at the side of the building for parking and unloading, and no back door to the performance space – he wondered how performers would get large and heavy equipment into the building.

Councillor Baker considered this to be a 'wow' project in a forgotten part of the town, a catalyst for improvement of the wider area, which should be a strong tourist offer but currently isn't. It will have a positive impact on many aspects of life in Cheltenham – cultural, economic and cyber. He felt the module design is increasingly popular, can be put up at speed, and it is radical, innovative and of our time, though he realises design is subjective and some people are not so keen. He reminded Members that the library building already contrasts with the Minster, and this modern construction will be a positive addition to the town.

Councillor Fisher endorsed all comments so far regarding the concept and what it will bring to the town, but felt the main criteria to be the design, with the only entrance facing the west door of the Grade 1-listed Minster. This is already enclosed by tall buildings, and the proposal, which higher than the previous scheme, will enclose it further. The design is strongly condemned by Historic England, the Architects' Panel and the Civic Society. He noted that the café will be open to the public, which could affect local businesses struggling to recover after Covid. The previous scheme used upcycled shipping containers, and if that has fallen by the wayside, we should have a fresh theme with a better design. The powder-coated steel cladding could have a lifespan of 40 years, and there are also constraints regarding archaeological remains which are worth conserving. He felt that there must be a better solution than this appalling design, and if it is permitted, we will be doing the people of Cheltenham a disservice.

Councillor Cooke also agreed and supported the concept, endorsing Councillor Hay's comments, but felt that the previous scheme was more welcome because of its radical, recycling and interesting credentials. He agreed with Councillor Fisher that this is a very sensitive location, and if the shipping containers are not used, a much more interesting design should be sought, not constrained by shipping container shape. He noted a comment in the papers about anti-social behaviour in the churchyard, and wondered how the scheme would contribute towards reducing this if it doesn't open onto that area. Like Councillor Fisher, he was concerned about the negative comments from the council's trusted consultees, who were previously supportive, and worried that we may be rushing into something we will subsequently regret, wondering if there was any merit in delaying the decision to improve the scheme to the satisfaction of Historic England. He asked officers to explain the main differences between the previous scheme and this one, which has caused such a change of heart in the consultees.

Councillor Payne echoed the comments of the last two speakers, and felt between a rock and a hard place – the need for the hub is critical and it will be a catalyst to take Cheltenham forward, but consultees have made adverse comments about the design and he shares that concern, particularly the relationship between the Minster and the building, and wondered if the Diocese is supportive of the entrance point. He said he wanted to support the scheme, but there are so many adverse comments from trusted consultees which are difficult to ignore.

Councillor Wheeler echoed Councillor Hay's comments, believing the scheme will add great value to the area, and we cannot afford to let it go. The module design is interesting, attractive and different – it doesn't have to mimic the beautiful Regency buildings around it. He suggested that, without foundations, if it doesn't work, it could be easily replaced in 15-20 years' time.

Councillor McCloskey reminded Members that they are not here to redesign the scheme, but to focus on the economic, social and environmental issues. He said that with many people losing their jobs they may want to start new enterprises, and the sooner we can get this up and running the better, adding that the funding may be lost if we have to go back to the drawing board.

Councillor Fisher added that the artist's impression shows heavily pollarded, white-barked trees – this is misleading, as the trees in question are limes. While agreeing with all that has been said about concept and need, he felt that this a steel-clad building adjacent to a Grade 1 listed church – noting that only 2.5% of listed buildings have this status - doesn't comply with the NPPF requirements for high-quality design, and should not happen.

Councillor Cooke asked if the intention is that the building will be temporary or likely to last 50-100 years. If so, Councillor Fisher made good points.

The senior planning officer confirmed that:

- Historic England and the Civic Society don't object to the use of modular units;
- Historic England's main concerns remain the same as for the previous scheme, which was unanimously supported. That scheme was for storage containers, this scheme has a similar industrial aesthetic and appearance. If Members are minded to move to refuse, they need to bear in mind the extant permission and be very clear in identifying the harm of this scheme, given the similarities;
- To Councillor Seacome, she assumes thought has been given to his points about moving equipment in and out of the performance space;
- The main entrance has always been in the elevation facing the Minster;
- The application is not for temporary permission – it will be a permanent structure.

The principal planning officer reminded Members that consultation comments are very specialised, and while taking these into account, it is important to remember that the officer has to consider the wider picture when making a recommendation, taking into account the previous consent and the public benefit

Councillor Seacome added that the pathways are not properly delineated, and it isn't clear where people will enter the building from the churchyard. He noted that the trees will shield the Minster from the building, but remained worried about the entrance and the rear access to the arena.

Vote on officer recommendation to permit:

7 in support

1 in objection

1 abstention

**APPROVED**

## **7. 20/01004/FUL Mendip, Tryes Road,**

The planning officer introduced the application, at Committee at the request of Councillor Harman and the residents' association. She showed Members various elevations and floor plans, and photographs taken from the adjoining property, looking towards the application site. The key considerations are design, impact on the conservation area, and impact on the neighbouring property.

### **Public Speaking**

i. Mrs Lovell, neighbour, in objection, said her family felt this proposal to be a step too far, with the two-storey extension resulting in substantial loss of light and overshadowing. She understood that planners rely on the 45 degree light, but was concerned that this should be a rule of thumb and not followed slavishly. She said the proposed extension will create a 'tunnel effect' on her property. In addition, she believed there would be loss of privacy in her garden, and also the gardens and rear windows of houses in Painswick Road. She felt that the consequence of repeated attempts to reduce the size of the extension to gain planning approval had resulted in a strange-looking, box-like dwelling, which would not preserve or enhance the conservation area.

ii. Cllr Harman, in objection, felt that the speaker had put her case eloquently, and hoped Members would take her comments into account. He said he has visited the neighbour's garden and noted the overpowering impact the extension will have – other Members have not been able to do this – and noted the neighbour's comment about the impact on Painswick Road – this is not detailed in the report, but will clearly have a dramatic and devastating effect. SPJARA has objected, and although some changes have marginally reduced the impact, this is not sufficient and the design solution is not aesthetically pleasing. He hoped that the Committee will agree and refuse the application.

**Member Questions:**

In response to Members' questions, the planning officer confirmed that:

- The tunnel effect on light to the neighbouring property, with extensions on both sides, already exists, but it is felt that the first floor extension is far enough away from the window not to make it any worse;
- The 45 degree light test for a door – the patio doors in this case – takes a centre point 1.6m from floor level and half way across the window to assess a pass or fail.
- The previous scheme was much larger, and following long and complicated discussions it was suggested that the application be withdrawn and a new one submitted, with subsequent re-consultation. This was a neater way to deal with the situation.

**Member debate:**

Councillor Cooke said that as with so many applications, it is a balance of benefit between the applicant wanting more space and the effect on the neighbour's property. He felt that looking at the pictures, the patio doors will be substantially shielded, whether or not the scheme passes the light test. The neighbouring garden and patio area will be shaded from the afternoon sun. This extension will also have a small effect of people in Painswick Road, and bearing in mind the context in the conservation area, the over-development and the unacceptable effect on the neighbour, he cannot support the scheme. He is prepared to move to refuse as over-development.

Councillor Barrell was also concerned about the overbearing effect on No. 11 and the residents of Painswick Road to a lesser extent; it is a very big addition. Councillor Baker noted that the residents of Painswick Road have not objected, and said that if the rear of the properties face the south, the sunshine it receives will not be impacted by the development. He did not feel the proposal could be considered over-development.

Councillor McCloskey had visited the area, and subsequently looked at the Park Conservation Area document – he could find no mention of Tryes Road or anything which highlighted these houses. He was therefore not overly exercised about the impact on the conservation area, as very little of it will be seen from the street, or from Painswick Road. He noted the NPPF's presumption in favour of development, and that the house clearly doesn't suit a modern family's needs in its current state. In view of the applicant's efforts to get the scheme right, and felt on balance, that it was not unreasonable.

The planning officer confirmed that the rear garden is south-facing.

**Vote on officer recommendation to permit**

6 in support

4 in objection

**PERMIT**

**8. Appeal Updates**

The appeals update had been circulated to Members.

**9. Any other items the Chairman determines urgent and requires a decision**

There was no other business to discuss.

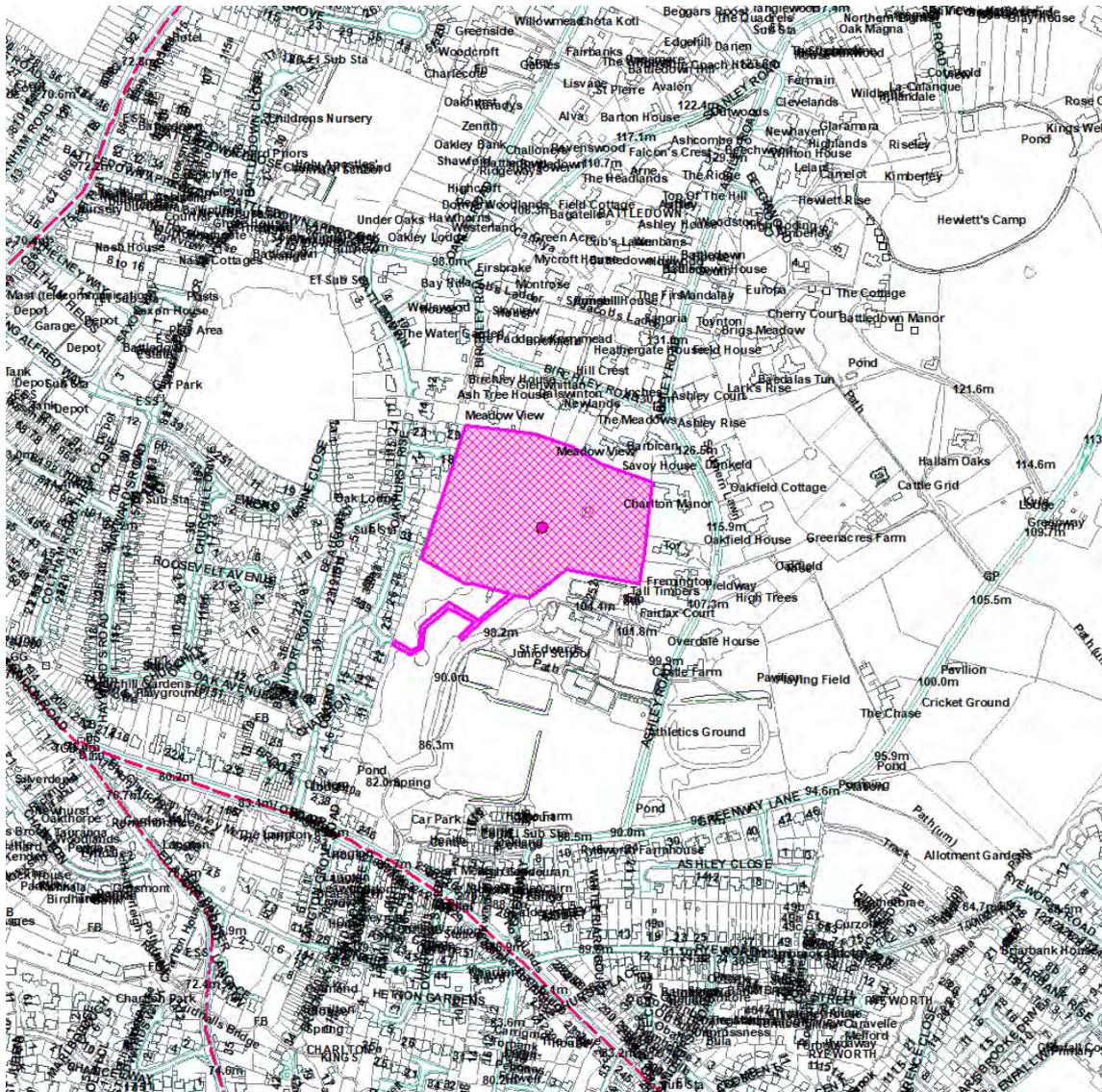
Next meeting: 17th September

The meeting ended at 3.30pm.

Chairman

<b>APPLICATION NO:</b> 20/00683/OUT		<b>OFFICER:</b> Mrs Emma Pickernell	
<b>DATE REGISTERED:</b> 29th April 2020		<b>DATE OF EXPIRY:</b> 29th July 2020 Extended by agreement with the applicant to 25th September 2020.	
<b>DATE VALIDATED:</b> 29th April 2020		<b>DATE OF SITE VISIT:</b> 24th June 2020	
<b>WARD:</b> Battledown		<b>PARISH:</b> Charlton Kings	
<b>APPLICANT:</b>	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust		
<b>AGENT:</b>	Frampton Town Planning Ltd		
<b>LOCATION:</b>	Land Adjacent To Oakhurst Rise, Cheltenham		
<b>PROPOSAL:</b>	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration		

**RECOMMENDATION:** Approval subject to s.106



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is a large, undeveloped parcel of land, approximately 4.3 hectares, located to the east of the borough within the Principal Urban Area (PUA), in an elevated position above the town. The site comprises two fields of grassland separated by a mature hedge and trees, and is largely bound by hedging and trees.
- 1.2 Residential properties in Birchley Road and Ashley Road are located to the north and east of the site, and Oakhurst rise to the west; St Edwards Preparatory School is located to the south.
- 1.3 The site is heavily constrained due to the presence of a number of protected trees; the sloping nature of the site; the presence of protected wildlife species; the presence of an historic Ice House; and its close proximity to listed buildings.
- 1.4 Currently the site forms part of the wider St Edwards Preparatory School site but is owned by The Carmelite Charitable Trust who lease the land to the school.
- 1.5 Two previous planning applications for this site have been refused by the Planning Committee. Application ref 17/00710/OUT was an application for the erection of 90 dwellings and was refused in July 2018. There were 5 reasons for refusal which, to briefly summarise, related to 1) loss of trees, (2) impact on the setting of listed buildings, (3) unacceptable impact on highway network due to access via Oakhurst Rise, (4) Impact on protected species, (5) Impact on landscape character and AONB.
- 1.6 Application ref 18/02171/OUT was an application for up to 69 dwellings. This was refused on 22<sup>nd</sup> March 2019 for the following reasons:

1) *The proposed development fails to adequately address the constraints and site specific requirements set out within emerging Cheltenham Plan Policy HD4 which identifies the site as a potential land allocation for housing. Although the Cheltenham Plan is currently under examination and has not yet been formally adopted, and there are significant unresolved objections to the policy, paragraph 48 of the NPPF (2019) does allow the Local Planning Authority to afford some weight to this policy in the emerging plan.*

2) *The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons.*

*The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 (c) of the National Planning Policy Framework (2019).*

3) *The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.*

*The development would therefore be in conflict with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019).*

4) *The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of*

*the site which the application proposes to be relocated as part of the development. Paragraph 175 (a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally.*

*The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175 (a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.*

- 5) *The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.*

*The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

- 1.7 Following the refusal of the planning application an appeal was made to the Planning Inspectorate which was dealt with by Public Inquiry which was held on 20 - 23 August 2019. On 20<sup>th</sup> September 2019 the appeal was dismissed.
- 1.8 Prior to the Inquiry the authority withdrew the fourth and fifth reasons for refusal in relation to ecology and visual impact. The appeal Inspector did not consider that the appeal proposal would cause harm to the appearance and character of the AONB.
- 1.9 The full text of the appeal decision will be provided to members as **appendix 1**, however the 'overall assessment' of the appeal decision is as follows:

*"120. It is established above that the less than substantial harm to designated heritage assets that would be caused by the proposed development carries considerable weight. In my judgement, for the reasons explained above, this harm is of a very significant level and both Listed Buildings whose settings would be harmed are themselves of very high significance. I therefore consider that the less than substantial harm identified amounts to the requisite clear reason to dismiss this appeal, in terms of Framework paragraph 11d(i).*

*121. However, very considerable weight is also to be afforded to the contribution the development would make to the supply of affordable housing in the face of an acute shortage. The contribution to market housing also carries significant weight, in the absence of a current overall five year housing land supply for Cheltenham. These are the net total of benefits identified in favour of the amended proposal now at appeal.*

*122. In my overall judgement, the adverse impact by way of the less than substantial harm to the significance of designated heritage assets in this case would alone outweigh these benefits to housing. I therefore consider that dismissal of the appeal is warranted on that ground with respect to Framework paragraph 11d (ii).*

*123. Moreover, it is also appropriate to take account of the harms I have identified by way of the loss of a protected tree and the degree of long-term risk to those trees to be retained, the potential net loss of biodiversity and the disadvantage due to the less than ideal nature of the highway access to the appeal site. I do not consider that these further adverse effects would, either individually or jointly, outweigh the significant benefits to the supply of affordable and market housing. Nevertheless they do further support the case for dismissal of this appeal.*

*124. Finally, the weight to be ascribed to the benefit to housing supply is fairly to be regarded as being constrained by the prospect that, even if the present proposal is rejected, there is still potential for the site to be development in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing supply for Cheltenham to above five years. These prospects too, although conjectural and not determinative, still militate against the approval of the current proposal.”*

**1.10** This application is now seeking outline planning permission for a revised scheme which proposes the erection of 43 dwellings (40% affordable). As with previous applications this current application is seeking approval for the access, layout, and scale with matters relating to appearance and landscaping reserved for future consideration, should the principle of developing the site be considered acceptable. Access would be via Oakhurst Rise as previously proposed. The proposed housing mix comprises:

4 no. 1 bed maisonettes  
2 no. 2 bed maisonettes  
1 no. 1 bed house  
8 no. 2 bed house  
9 no. 3 bed house  
19 no. 4 bed house

**1.11** The principal changes between the 2018 planning application that was dismissed at appeal and the current proposal are:

- Revised layout of the site
- 26 fewer dwellings
- Revised indicative landscaping and tree planting proposals
- Revised arrangements for relocating badgers

**1.12** In addition to drawings, the application has been accompanied by a number of detailed reports and statements, all of which have been available to view on the Council's website.

**1.13** The Cheltenham Plan, with the site allocated for housing development (HD4) was adopted by the Council on the 20<sup>th</sup> July 2020.

**1.14** The application is at committee at the request of Councillors Harvey, Fisher and Savage.

**1.15** Due to the Covid 19 outbreak a group site visit will not be arranged in respect of this application. Whilst this Authority ordinarily organises a 'planning view' this is by no means essential and is not required by any legislation. Most members of planning committee have visited the site twice when considering previous applications on the site. Photographs and other illustrative will be made available through the officer presentation.

**1.16** Relevant Officers have visited the site on a number of occasions.

## **2 CONSTRAINTS AND RELEVANT PLANNING HISTORY**

### **Constraints:**

Airport Safeguarding over 45m  
Landfill Sites boundary  
Principal Urban Area  
Residents Associations

**Relevant Planning History:**

**CB15569/00**                      **WITHDRAWN**                      **28<sup>th</sup> August 1981**  
Land to the west side of Whitefriars School – Outline application for residential development

**CB15568/01**                      **REFUSED**                      **29<sup>TH</sup> October 1981**  
Land to west side of Whitefriars School – outline application for residential development of 6.5 acres of land including new highway access from London Road – refused on highway grounds

**CB16992/00**                      **REFUSED**                      **25<sup>TH</sup> October 1984**  
Land to west side of Whitefriars School – Outline application for residential development including the construction of new estate roads, footpaths, landscaping and all associated drainage works – refusal reasons related to policy contraventions; loss of tree; surface water drainage; and highway/traffic implications

*Note: Although the above planning history has been included for completeness, given the significant period of time that has since passed, the decisions are not relevant to the determination of this application which must be determined in accordance with the current development plan and national policies.*

**17/01736/SCREEN**                      **ISSUED**                      **8th September 2017**  
Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

**17/00710/OUT**                      **REFUSED**                      **30th July 2018**  
Outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration

**17/01778/FUL**                      **WITHDRAWN**                      **5th July 2018**  
Provision of a dropped kerb

**18/02171/OUT**                      **REFUSED**                      **22nd March 2019**  
Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT)

### **3 POLICIES AND GUIDANCE**

**National Planning Policy Framework**

Section 2 Achieving sustainable development

Section 3 Plan-making

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 Joint Core Strategy Policies**

SP1 The Need for New Development  
SP2 Distribution of New Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD6 Landscape  
SD7 The Cotswolds Area of Outstanding Natural Beauty  
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  
INF6 Infrastructure Delivery  
INF7 Developer Contributions

**Adopted Cheltenham Plan Policies**

D1 Design  
D3 Private Green Space  
L1 Landscape Setting  
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  
H1 Land Allocated for Housing Development  
HD4 Land off Oakhurst Rise  
SL1 Safe and Sustainable Living  
G12 Protection and Replacement of Trees  
G13 Trees and Development  
C11 Securing Community Infrastructure Benefits  
C12 Sports and Open Space Provision in New Residential Development  
C14 Broadband Provision

**Supplementary Planning Guidance/Documents**

Development on garden land and infill sites in Cheltenham (2009)  
Flooding and sustainable drainage systems (2003)  
Landscaping in new development (2004)  
Planning obligations (2003)  
Planning obligations: transport (2004)  
Play space in residential development (2003)  
Public art (2004)  
Security and crime prevention (2003)  
Sustainable buildings (2003)  
Sustainable developments (2003)  
Travel plans (2003)

**4 CONSULTATIONS**

**Social Housing**

*17th June 2020*

See **Appendix 2**

## **Building Control**

*20th May 2020*

The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

## **Parish Council**

*2nd July 2020*

Further to the CKPC Planning Committee Meeting of 5/11/18, we object to the above application with the following comments:

It is disappointing that except for a reduction in the number of dwellings proposed, this application does little to address any of the Committee's concerns raised about the previous applications for this site.

### **Drainage and Flood Risk:**

The Committee note the concerns raised by the Cheltenham Flood & Drainage Panel and note that again, despite the matter being previously raised, there is no detail as to how the attenuation systems will be maintained in the future. If the drainage and attenuation systems are not maintained then the development would in time become a substantial flood risk to properties downhill of it.

### **Ecology:**

Even if the re-location of the badger sett is successful, this development would convert what is currently the foraging area for the badgers into hard landscaping and gardens. This will bring badgers into conflict with residents, both in terms of accidents with cars and damage to gardens.

There seems to be some confusion between the various documents as to whether or not all the mature trees on the site would be retained or not.

### **Local services:**

There are shortages in capacity in both Primary and Secondary schools in the Parish, with some children unable to gain entry to schools within the Parish.

Similarly, prior to the current exceptional circumstances, there were substantial waiting times to access local GP services.

This proposal will increase demand for these already stretched services.

### **Heritage:**

The development would be detrimental to the setting of both Ashley Manor and Charlton Manor and we note Historic England's continued objection to the development on these grounds.

### **Transport:**

As with all the previous applications, the suggestion that there is easy access to local facilities and bus services by bicycle or on foot is simply nonsense. The severity and length of the climb from the bottom of Charlton Court Road to the entrance to the development (32m of climb over 460m) means that almost all journeys to and from the site would be by private car. The Residential Travel plan simply ignores this obstacle to sustainable transport. The offer of an e-bike to each household is merely a marketing gimmick. If this development has a design life of 100 years, what happens when the e-bike reaches the end of its working life, or if the original property owner moves? The fact is that only extremely dedicated cyclists will cycle to or from this development and people will not walk to local shops if they have a car available.

We understand that the Travel Plan quotes bus timetables from 2018 that no longer run as evidence of access to bus services.

### Community Cohesion:

As almost all movements to and from the site will be by private car, the site will effectively be socially isolated from the surrounding residential areas, severely restricting Community development and integration with the wider Parish.

### Social Housing:

While Charlton Kings (as everywhere else) has a shortage of social housing, given the access difficulties other than by private car, social housing tenants without access private cars would be very isolated.

### Local Plan:

The suggestion (which this Committee strongly disagreed with) in the Local Plan was that the site could possibly accommodate around 25 dwellings, yet this application is for 43, almost double the (disputed) amount suggested.

### Winter Access:

Residents of Oakhurst Rise have previously reported that in snow and icy conditions it is necessary to leave cars in Charlton Court Road as Oakhurst Rise becomes dangerous and even impassable. As the only access to the development would be Oakhurst Rise, adding the cars from a further 43 households either risking Oakhurst Rise or being abandoned in Charlton Court Road would be foolhardy.

### Existing Residents:

The existing residents of Oakhurst Rise enjoy the amenity of living on a quiet cul-de-sac. The road becoming a through route for this development will be detrimental to their quality of life. This is especially true of the resident who relies on the Community mini-bus to take her out. The operator of the bus has said they may well not be able to continue providing the service if the development takes place. The bus blocks the end of the cul-de-sac that would form the access to the site while her wheelchair is loaded and unloaded as the road is not wide enough to carry out this operation and maintain a through route. While the impact on residents is reduced with the reduction from 69 to 43 dwellings, it is still unreasonable. Sustainable development is meant to enhance people's quality of life, not degrade it.

## **Cheltenham Civic Society**

*4th June 2020*

### OBJECT.

Before commenting on the merits of the current scheme (see below), the Civic Society Planning Forum agreed that the history of this case was evidence of poor planning.

As noted by the inspector in the appeal decision of 19 August 2019, the site lies within the defined Principal Urban Area of Cheltenham but is not allocated for any form of development. However, neither is the site subject to any policy restriction on development. So, there is no objection to the principle of residential development and some development is inevitable. But the way in which this is being resolved is wrong.

This application is now the third in the past 2 ½ years. Each time the number of new homes proposed has been reduced (91, 68 and now 43). The developer aims to maximise the number approved; the planners and the appeal inspector cut them back. Greater emphasis on placemaking rather than just numbers of dwellings might have been more

constructive on such a sensitive site. A great deal of expenditure has been incurred, and much public anxiety, even anger, has been generated as result.

In our view, some 25 or so homes could be built on part of the site, as the council itself has indicated (Policy HD4 in the emerging local plan). The site also has important environmental values, including veteran trees, wildlife, heritage assets and fine views which should be protected. However, little public benefit is being derived from this at present.

The public interest would best be served if those parts of the site that cannot be developed with housing were to be dedicated as public open space, to be managed in order to retain their environmental qualities.

We conclude that a plan-led approach should have been adopted here rather than an appeal-led one. Once it became clear that there were pressures for development, Cheltenham Borough Council should have worked with the landowners, the developer and the local community to draw up a master plan for the whole site. This should have indicated in broad terms where development would be acceptable and where it would not, and what form it should take. It should have also ensured lasting public and environmental benefits by dedicating most of the site as public open space.

We ask that the Council learn the lessons from this expensive, time-consuming and divisive experience.

As to the current proposal, the architectural quality of the proposed buildings is poor, and they will date badly. Given local concern about the site and its environmental importance we should expect better. On this site, the aim should be an outstanding development, which could relate to the density and style guidelines of the adjacent Battledown estate.

There is no indication in the application of what will happen to the non-developed green area and what the plans are for the management of the green spaces. There is also no mention of energy conservation.

### **Gloucestershire Centre For Environmental Records**

*22nd May 2020*

Biodiversity report received.

### **Gloucestershire Wildlife Trust**

*14th August 2020*

Regarding the proposal for Local Wildlife Site status on land at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT).

In order to achieve the goal of a balanced and useful Local Sites system, the Gloucestershire Wildlife Sites Partnership uses minimum habitat and species thresholds that fit the unique biodiversity of the county into a wider context, and a set of general criteria based on the DEFRA-recommended version of the Ratcliffe criteria.

The proposed site does meet the criteria set out in the Key Wildlife Sites (now referred to as Local Wildlife Sites [LWS]) handbook (2015), being greater than 0.5 ha (site is approximately 3.5 ha), confirmed as MG1 grassland habitat by NVC survey carried out by Aspect Ecology in July 2019 and Aug 2020 and by Bioscan in July 2019 and recording, through combination of all of the above surveys 22 species from the grassland list. However, MG1 can cover a wide range of grassland condition, from very high grass cover

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and few herbs through to much lower grass density and significant herb cover. As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not. The panel may be unable to convene before the planning application goes to committee.

The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site.

### 2nd September 2020

The Local Wildlife Site (LWS) Selection Panel met on 01/09/2020 to consider the proposal for St Edwards Prep School Meadow to be a LWS.

In addition to me providing secretariat, the LWS Selection Panel consists of a representative from each of the following:

Gloucestershire Naturalists' Society  
Gloucestershire Wildlife Trust  
A Gloucestershire Local Planning Authority

The Panel agreed that the site passes the Gloucestershire Local Wildlife Site Selection Criteria 2015 under point 9. Value for learning - "c. the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance". The site is part of the land currently leased to the St Edwards Prep School and therefore by its proximity to the school and range of habitats and species on the site, it is exceptionally well placed to provide accessibility for study. Whether the school currently uses the site for nature study or not, is not a decision point as the LWS criteria aim to protect sites to maintain benefit into the future and changes in curriculum or personnel could easily result in change of attitude towards use of the site. LWS may be selected purely on the grounds of excellence for the understanding of biodiversity, even where other criteria are not met.

The Panel also consider that the site may also pass the criteria for MG1 grassland plant species. Two sets of plant species data that were provided for the site by Aspect Ecology (applicant's representative) and Bioscan (Friends of Charlton Kings representative) differ but between them provide a match for 22 species from table H5c of the LWS criteria. Under normal circumstances we would conduct our own independent survey at the correct time of year to decide whether the grassland passes the criteria based on plant species. However due to the timescale associated with the planning application this is not possible.

The site will be recorded on the LWS database as St Edwards Prep School Meadow.

### 2<sup>nd</sup> September 2020

I am writing to provide Gloucestershire Wildlife Trust's (GWT) comments regarding the biodiversity mitigation proposed in application 20/00683/OUT.

The grassland on site has been assessed in the applicant's ecological report as of poor quality semi natural grassland. However, there are as they mention, a number of indicators

of unimproved neutral grassland, a resource for which we only have 1677ha recorded in the county (0.6% of the county by area). Though these indicators are in some cases infrequent in the sward, they and the historic of lack of agricultural improvement of the site, do suggest that if the site were to be more appropriately managed, e.g. appropriately timed annual hay cut and removal of the arisings, the site would be likely to develop to a more unimproved grassland quality.

The ecological report enhancement measure EE2 talks of grassland creation, however, in the response to Friends of Charlton Kings (20\_00683\_OUTECOLOGY\_BRIEFING\_NOTE\_ON\_BEHALF\_OF\_THE\_APPLICANT-1076642.pdf) the consultant clarifies that existing grassland will be retained and enhanced. GWT would endorse the retention of the grassland intact and enhancement of the sward through local provenance seed. The ladies bedstraw is not widespread across the site, being mainly in a couple of large patches to the north west of the ice house. Attempt should be made to preserve this in situ.

The largest area of retained grassland, being retained for school use, will not have public access. This gives greater confidence that under enhancement and correct management a more species rich sward should develop. It should be made clear to residents that this area has no public access and fencing should be such to ensure it is not easy to gain access. Management should consider the requirements of both the enhancement of plant species diversity but also the maintenance of invertebrate species recorded on the site such as chimney-sweeper moth and five spot burnet moth.

The site has been confirmed to pass the Local wildlife Site (LWS) selection criteria by the Gloucestershire LWS selection panel (01/09/2020) on the grounds of Value for Learning, being a good selection of habitats and species exceptionally wellplaced to offer educational opportunities by its proximity to a school. The mitigation plan will enable the continuation of part of the site to meet the same criteria, however, GWT would like to see conditions in place such as a conservation covenant to ensure the undeveloped area of the site is secured for biodiversity in perpetuity.

For areas accessible to residents the outcome of grassland enhancement is of lower confidence as access by dog walkers is likely to result in nutrient enrichment and compaction.

GWT's view that the mitigation and enhancements for the habitats and species recorded on site are adequate to achieve no net loss of biodiversity.

### **Heritage And Conservation**

*7th July 2020*

The relevant legislative and policy context within which the proposal needs to be considered is set out below.

The cornerstone of heritage legislation is the Planning (Listed Buildings and Conservation Area) Act 1990, Section 16(2) which states, "In considering whether to grant listed building consent for any works the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

A core policy of the National Planning Policy Framework 2019 (NPPF) is heritage assets be conserved in a manner appropriate to their significance. Chapter 16, paragraphs 193-196 set out the framework for decision making for applications relating to heritage assets. This assessment takes account of the relevant considerations within these paragraphs.

Local planning authorities are required by paragraph 192 of the NPPF to identify and assess the particular significance of any heritage asset... taking into account the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. When considering potential impacts of development on the significance of a designated heritage asset Paragraph 193 of the NPPF requires great weight be given to the asset's conservation. If harm to or loss of a heritage assets is identified Paragraph 194 of the NPPF requires clear and convincing justification for it. Paragraph 195 and Paragraph 196 of the NPPF go into detail over the level of clear and convincing justification required. Notably Paragraph 196 of the NPPF states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Historic England's Historic Environment Good Practice Advice in Planning: Setting of Heritage Assets (GPA3) December 2017 is also of relevance. The GPA3 provides a framework for the assessment of proposed changes to the setting of a heritage asset. To assess the degree of potential harm to the significance of a heritage asset, it advises a stepped approach, which includes: Identifying which heritage assets and their setting are affected; Assessing of the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated: Assessing the effect of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it; Exploring ways to maximise enhancement and avoid or minimise harm; Making and documenting the decision and monitoring outcomes.

The current application 20/00683/OUT is an outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration. This application is an amendment of application 18/02171/OUT an outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration which was dismissed at appeal, itself an amendment of application 17/00710/OUT, an outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration which was refused.

A number of heritage assets and their settings are potentially affected by the development proposal, both within and immediately adjacent to the proposal site. Most notable is Ashley Manor. This property has had a number of name changes but will be referred to as Ashley Manor within these comments.

Ashley Manor is a grade II\* listed building and described in its list description as one of the finest Regency villas in the Cheltenham area. Its current use is an administration building associated with St. Edward's School. It is located within a planned parkland setting, with a rural setting comprised of open fields and trees to the north. Notably this northern rural setting is the application site.

Ashley Manor forms a group with a number of other heritage assets on the school site which include, the boundary walls and gate to Ashley Manor facing on to London Road, the summerhouse to the southwest of Ashley Manor, a pair of piers at the carriage sweep of the southwest of Ashley Manor, all of which are ancillary structures associated with Ashley Manor within its parkland setting. Each of these structures is separately grade II listed. A noteworthy curtilage listed building to the north of Ashley Manor, outside the planned parkland but within its rural setting, and within the application site, is a former icehouse.

Charlton Manor, Ashley Road is a notable heritage asset adjacent to the northeast corner of the site. It is a grade II listed Victorian house on the Battledown estate, whose rear boundary directly abuts the site. The rear of this property looks west over rural setting provided by Ashley Manor and has views of the wider landscape.

The heritage concerns previously raised over refused outline applications 17/00710/OUT and 18/02171/OUT have to an extent been addressed by the current application. It is considered there are still issues with the proposal in terms of its impact on the setting of the heritage assets, which result in it causing less than substantial harm. However, on balance, it is considered it should not be objected to in heritage terms due to the amendments made to the number and location of dwellings, the measures introduced to mitigate its visual impact and the associated public benefits. The advice below will address the impact of the development proposal on each affected heritage asset identified.

Concerning Ashley Manor, as stated, historically its curtilage included planned parkland within a wider rural setting, defined by open fields and trees and tree groups. This setting has been compromised by both the school use, which has resulted in a number of unsympathetic extensions and alterations within its parkland setting, and by significant suburban development around its boundary, diminishing its wider rural setting. Despite this the parkland setting, most notable to the south, and it's the rural setting to the north, has survived.

Due to their proximity to the development site, it is considered Ashley Manor, the summerhouse to the southwest of Ashley Manor and a pair of piers at the carriage sweep to the southwest of Ashley Manor, located around the driveway sweep and uppermost section of the driveway, along with the curtilage listed icehouse located to the north of Ashley Manor, are affected by the development proposal.

It is clear from the submitted supporting documents an attempt has been made to design the proposal to minimise its impact on Ashley Manor, it's associated listed and curtilage listed structures and its setting. It achieves this by limiting built form to the north-west of the proposal site and by preserving the existing rural setting to the north of Ashley Manor and a notable 'finger' of land to the southern section of the development site. It also introduces and reinforces extensive landscaping in the form of a 30 metre tree planting band, located between the development proposal and the remaining retained rural setting, in an effort to soften its impact. Notably the visual link between the north elevation of Ashley Manor and the icehouse is preserved within the development proposal, it being retained within its rural setting, with the tree planting serving to reinforce the vista without encroaching upon it.

However, the proposal does result in a loss of part of the wider rural setting and the character of the remaining setting is changed from large open fields to one where the open space is diminished and strong bands of trees become more prominent. It is also acknowledged in the short-term views of the development proposal will be possible from Ashley Manor and its immediate setting, although long-term, when the trees are more mature, a strong tree line will be created obscuring the built form. This impact is considered to cause a measure of less than substantial harm to the significance of a designated heritage assets. This harm will need to be weighed against the public benefits of the proposal.

Charlton Manor, Ashley Road is located to the northeast of the site within the Battledown estate. Battledown was laid out in 1858 with Charlton Manor the first property to be built there in 1864. The estate grew slowly into the late 20th century the area is typically characterised by large houses set back from the road on large plots. The rear boundaries of properties on the Battledown estate, including Charlton Manor, face onto the proposal site.

Charlton Manor has been designed to take advantage of views beyond its rear garden, over both the existing fields, to the icehouse and over the longer views of the wider landscape. As previously noted, the development proposal has attempted to address the concerns over the location of built form by limiting it to the north-west of the site, enclosing it with extensive landscaping in the form of tree planting and by retaining a notable section of the rural setting.

It is again acknowledged short-term views of the development proposal would be possible, although long-term a strong tree line would be created. The impact of the truncated views across the fields as a result of the reduction of the rural setting and the resultant change of character is considered to cause a measure of less than substantial harm to the significance of a designated heritage asset. This harm will need to be weighed against the public benefits of the proposal.

Paragraph 196 of the NPPF requires when less than substantial harm is identified a weighing exercise between the harm to the significance of a designated heritage asset and the public benefits of the proposal take place.

The steps in Historic England's Historic Environment Good Practice Advice in Planning: Setting of Heritage Assets have been demonstrated within the Heritage Impact Assessment by Grover Lewis Associates dated April 2020. The conclusions regarding the impact are similar to those identified within the above comments, where less than substantial harm is identified. The public benefits of the development proposal are identified and a balancing exercise is undertaken within the Planning Statement by Framptons dated April 2020. The public benefits, which are stated as outweighing the great weight that needs to be given to the asset's conservation, are identified as the delivery of market housing and affordable housing to which substantial weight should be given, net gains to biodiversity, the benefits from long term management of mature trees and hedges, the economic benefits arising from employment during the construction period and indirect employment following occupation of the dwellings, improvements to the Ice House and benefits to St Edward's School.

Where less than substantial harm has been identified it is considered to be caused to limited aspects of the heritage significance of the affected heritage assets and their settings. The proposal has been significantly amended since the previous proposals to address the reasons for refusal. Notable is the decrease in the number and location of dwellings, and the proposed extensive landscaping measures to reduce and mitigate the visual impact of the development proposal on the heritage assets and their settings. Cumulatively these measures, and the acceptance of the public benefits of the proposal, are considered to result in a proposal that, on balance, should not be objected to in heritage terms.

To accord with Paragraph 196 of the NPPF the case officer will need to carry out a separate exercise to weigh the public benefits of the proposal against the great weight that needs to be given to the conservation of the affected heritage assets.

**Tree Officer**  
*26th May 2020*

The CBC Tree Section does not object to this application.

Whilst the nature of the part of the site proposed to be built upon will change forever and trees are to be removed as a part of the development process, it is proposed to retain most significant trees as well as trees protected by a Tree Preservation Order. There is also a proposal to plant what is planned to become a significant belt of trees to act as a buffer between the school and the proposed development as well as plant many other trees within this site.

All of the high quality category 'A' trees (as per BS5837 (2012)) within the site are shown as being retained and indeed only a 14 meter high ash and a similar sized sycamore are shown as being part of removal plans of 'moderate' or category 'B' trees leaving an overall 90% of total category B tree stock. There are trees of lesser 'low quality' 'C' grade trees to be removed. Such trees have been classified because they are unremarkable, are in

impaired condition or have a primary 'collective value'. Experience has shown on active development sites elsewhere that whilst trees are shown as being retained, situations can arise where trees previously marked for retention have to be removed (for whatever reason). However in this situation, a combination of a particularly robust described tree protection plan combined with arboricultural supervision at appropriate sensitive junctures as well as building development proposals generally being situated well away from trees, it is anticipated that such occasional unplanned collateral damage will be limited. However, much of the success of the development of the site will rely on the 'buy in' by the site supervisor and other site employees during the course of construction. To address this, procedures have been recommended within the submitted tree protection details so that not only site management but also all site operatives will be aware of the importance of trees to this site and the risks involved with non-compliance to all tree protection measures.

Whilst the planting mitigation strategy appears generous, it will take many years (decades) before maturity. However apart from some low quality boundary and mid site hedge self-sown trees, there are very few existing new trees currently succeeding into maturity. This may be as a result of wild deer or other animals eating/destroying all new growth. Proposed landscape strategy includes deer-proof fencing which must be maintained if such native tree planting is to succeed. Much of the area within the site is to be used by St Edward's School in the future and the tranquil nature of this south eastern area should remain. It appears as though this area is to be left undeveloped. This would be a good location to plant new potentially very large 'landmark' trees for the future. It is noted that there are several such trees close to the school-Sequoia, pine, beech etc. It is strongly recommended that similar trees are planted here for the future benefit of the school as well as landmarks for the proposed nearby residents. Please could planting plans be adjusted accordingly.

The majority of existing successfully established new trees are ash. Sadly they have a very uncertain future with the prospects of ash die-back likely to kill most ash trees. Any planning permission to be granted must include details of tree planting pit design for all large trees to be planted, species, size, location, root type, maintenance and watering regime etc to be submitted and agreed. Similarly, all hedgerow and woodland planting as well as succinct details of veteran tree 'buffer' planting must be submitted and agreed prior to the commencement of any on site works. Please note that the nature of the soil in this area is clay and that it is important the clay tolerant species are planted so as to minimise tree establishment difficulty.

The heads of terms for the landscape management plan are acceptable and such a detailed 10 year management plan should be conditioned as a part of any Reserve Matters. The hedge bisecting the site which is chiefly comprised of ash is likely to become somewhat thread-bare if/when the anticipated ash dieback kills such existing ash trees. The retention of the hedge and new planting briefly discussed as not being for amenity and as such selective planting will include deterrent planting (ie spiny/prickly) species. Whatever is planted, it is considered likely that children will find access and begin to play within this hedge line. Consequently it is likely that parts of it may suffer-however such outdoor play is a part of childhood in such a peri-urban situation and it is unrealistic to consider that the hedge line and growth within it will remain completely undisturbed. However the deterrent planting and proposed knee rails around and under the drip lie of veteran trees must be successful. Such trees have an increased heritage and ecological value and their continued survival and prosperity is essential as they continue to mature. Succinct details of such deterrent tree and shrub planting must be submitted as a part of Reserve Matters. Such details must be assessed by CBC Trees and Landscape Design officers prior to discharge.

Tree VT3028 is especially vulnerable to damage and as such it is recommended that a permanent barrier preventing such access is erected around the tree. Such a barrier (metal fence) should not be possible to be climbed over. This will 'frame' the tree highlighting its importance to adjacent householders and users of the open space. Obviously, access

should be possible with padlock and key when absolutely necessary. Such a an appropriate and tasteful metal fence will make it's long term retention more certain.

Again the 'buy-in' by any new residents and owners of the soft landscaping within this site is essential if the overall landscape led design of the site is to succeed. Such activities to be described within a management plan will not likely be cheap to afford by residents (especially as it is noted that there are to be several 'affordable housing' plots). Nevertheless such a 'buy-in' is critical if the site is to successfully retain it's current primary natural features (the veteran trees) as well as the proposed new tree planting. The possibility of covenants enforcing such landscape features on owners should be explored. Similarly Retention of existing and proposed hedgerow' planning conditions should be issued along with any permission to be granted.

All tree planting near to proposed dwellings must be sympathetic in terms of proposed tree size (in maturity) and species. It is unrealistic the consider that new occupants will accept living adjacent to inappropriate trees (taking into account overall future size, tree 'litter', shade, propensity to shed limbs and branches, leaf, fruit and flower drop annually etc) and as such tree planting regimes must take account of this when planting.

The relationship between new properties and such existing retained veteran trees as well as new planting must be harmonious in terms of structural compatibility as well. The site appears to be comprised chiefly of shrinkable clay soil. It is imperative that new dwellings/structures' foundations are constructed in such a manner as to take account of this soil and not suffer from subsidence related damage as a result of tree root water extraction. Such successful subsidence claims inevitably lead to demands for tree removal or heavy pruning (removing much of the amenity of the trees) so as to reduce water demand. Such a situation must not arise in the first instance. Piled foundation structures are mentioned in the Tree Protection Plan but detailed foundation design which takes account of current, and future water demand must be submitted as a part of Reserve Matters.

The proposed 'no-dig' solution to parking adjacent to tree T3015 detailed within the Tree protection Plan is necessary and should be included in Reserve Matters. Drainage connection to the south of the site must not enter into the Root Protection Area of any tree or thrust bore drainage techniques must be a minimum 1 meter below the soil horizon so as to minimise damage to existing trees-all as detailed in the FLAC Tree Protection Plan of 17th April 2020.

Provision for pedestrian and vehicle access into the proposed open spaces is essential so as to facilitate maintenance to the meadow as well as trees. Details of how such access is facilitated should be submitted and agreed.

### **GCC Highways Planning Liaison Officer**

*1st July 2020*

See **Appendix 3**

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

*6th May 2020*

Information provided with this application, in the document C21505 Oakhurst Rise, Charlton Kings / FRA Rev M April 2020, adequately describes a feasible strategy for the management of surface water on and from the development site.

The strategy described will require further detail before development commences including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development.

Should permission be granted for this development it should be conditioned as follows:

Condition:

No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall include the management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason:

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

NOTE 1 :The Lead Local Flood Authority (LLFA) will give consideration to 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.

**Severn Trent Water Ltd**

*5th May 2020*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

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

- o 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
- o The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is 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.

### **Charlton Kings Friends**

8th June 2020

See **Appendix 4**

29th July 2020

Review of Submitted Ecological Appraisal on behalf of CK Friends

See **Appendix 5**

### **Sport England**

*1st May 2020*

Thank you for consulting Sport England on the above application.

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:

[https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning\\_applications](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications)

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Par. 97 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:

<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for

new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Sport England's Active Design Guidance: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

Please note: this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

### **Historic England**

*13th May 2020*

Thank you for your letter of 1st May 2020 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

#### Summary

We consider the open green space of the application site to contribute significantly to the setting of the Grade II\* listed Ashley Manor. Historic England objects to the proposed development and considers the quantum, location and screening of the development would result in harm to heritage significance, as defined by its setting.

#### Historic England Advice

While we have rehearsed the significance of Ashley Manor and its setting at the time of the 2017 and 2018 applications, we consider it appropriate, as a reminder, to repeat our own assessment of those aspects of setting that contribute to heritage significance.

The villa at St Edwards School, known most recently as Ashley Manor, was built for Nathaniel Hartland (the single most important lender of money to builders in the Pittville development in Cheltenham). Its list description describes it as 'One of the finest villas in the Cheltenham area, its internal plasterwork is a particular feature for its diversity, depth and quality of composition.' The original approach to the house is from London Road to the south; the sinuous tree-lined drive remains largely unaltered. The Grade II listed boundary walls and gate piers (marking the entrance from London Road), and further into the grounds, the Grade II summerhouse and drive piers to the surviving carriage sweep are all remnants of this high-status, grandiose villa-house ensconced within its generous parkland setting. Indeed, the topography of the site is significant; the land rises markedly from south to north, which would have been a conscious motive for siting this 'villa' style dwelling overlooking the town. This 19th century revisiting of ancient Classical-inspired villas was heavily influenced by Andrea Palladio's work of the 16th century. Palladio's villa suburbana (country houses purely for residential or leisure as opposed to agriculture), in particular the Villa Rotunda, gave rise to a vast tradition in villa architecture; these formative dwellings were conceived with a close relationship to their location. Of Villa Rotunda, Palladio wrote 'the site is as pleasant and delightful as can be found; because it is upon a small hill...it is encompassed by the most pleasant risings...and therefore...enjoys the most beautiful views from all sides'. The building rises out of the landscape and so does Ashley Manor in this very nature. So, whilst the principal elevation faces southwards, the siting of this villa, within its extensive, rising grounds is of, arguably, equal significance. Ashley Manor is

designated as Grade II\*, and as such is in the top 8% of listed buildings. Therefore, greater weight should be given to its conservation. The National Planning Policy Framework (NPPF) defines 'conservation' as 'the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance'. We acknowledge that significant modern additions (large school-related buildings, as well as landscape features such as the blue-topped playing surfaces) have eroded the historically isolated setting of Ashley Manor. Notwithstanding, the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later development to the north. The application site is clearly associated, historically, with the villa and that grounds of this extent would be expected with a high-status property.

Following the refusal of applications in 2017 and 2018 for 90 and 69 units respectively, the revised outline application proposes a further reduction in dwelling numbers to 43 units on the site north of Ashley Manor. The area proposed for development is now pushed towards north-western corner of the site and would include a wide planted screen to the south of the proposed built development. This represents a less intensive form of development of the site than the previously schemes. However, we still consider that the severance of the setting of Ashley Manor and the encroachment of development and associated landscaping towards the Grade II\* building is harmful and an unacceptable quantum and form of development.

The most recent refusal (18/02171/OUT) was dismissed at appeal during the period of examination of the Cheltenham Plan, with particular reference to allocation site HD4 (the application site). During inquiry, the Examination Inspector issued post- Hearing advice requiring an amendment to the development boundary in order to safeguard the setting of listed buildings. However, at this time, the Examination Inspector had not agreed the Main Modification for public consultation and the appeal against the refusal of the 2028 application was determined on that basis.

When considering the Planning Inspector's comments in the appeal decision in 2018, the importance of the application site to the setting of the Grade II\* building was reached by taking a range of viewpoints, including those from principal rooms in Ashley Manor. The Inspector stated that there is 'an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets..... Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views (Viewpoint 1 in the Landscape and Visual Assessment.' This enforces our continued view that it is the entire application site which makes an important contribution to the setting of the Grade II\* building and not just the areas closest to it.

In terms of proposed tree planting as means to screen the development and mitigate the visual impact, the Appeal Decision makes comment on the proposed screening along the southern boundary to the site. The Inspector comments that 'by avoiding built development in the southernmost part of the site, the amended layout mitigates to some extent the effect of the proposed development on the setting of the westfacing, former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.' The revised application has removed the new planting shown along the northern side of this boundary on the dismissed scheme.

However, a significant tree belt is proposed within a few metres of the boundary which would effectively divorce the visual connection between the carriageway approach to the west elevation of Ashley Manor and its open, green setting beyond. This impact may be demonstrated by some additional analysis of the view presented in Plate 7 (in addition to

others) in the Heritage Impact Assessment. We remain very concerned over the visual severance of the open land to the north of Ashley Manor.

We understand that subsequent to the Cheltenham Local Plan Inquiry, the Examination Inspector's report of 17th March 2020 approves the Main Modification for HD4: A minimum of 25 dwellings, subject to masterplanning (in accordance with Policy SD4 of the JCS) which demonstrates that development can be achieved whilst accommodating: A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development. We understand that following the Inspector's Report, the council have yet to formally adopt the Cheltenham Plan at this time. While we acknowledge the emerging housing allocation for this site, it must respect the setting of heritage assets. We do not consider that the current proposals achieve an acceptable level of respect to the setting of heritage assets. We therefore advise that significant adjustments are made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". When considering the current proposals, in line with Para 189 of the NPPF, the significance of the asset's setting requires consideration. Para 193 states that in considering the impact of proposed development on significance great weight should be given to the asset's conservation and that the more important the asset the greater the weight should be.

Para 194 goes on to say that clear and convincing justification is needed if there is loss or harm. When considering development that has been identified to affect setting, Historic England's guidance (Historic Environment Good Practice Advice in Planning - Note 3. The Setting of Heritage Assets) should be referred to.

### Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193 and 194. .

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

### **Battledown Trustees**

*6th June 2020*

On 1st May 2020, you kindly advised that you would be pleased to receive comments concerning the above planning application from the Trustees of the Battledown Estate, having designated us as 'Consultees' on the matter.

This application is yet another attempt to build over a large proportion of the exceptional and irreplaceable meadow-land accessed via the top of Oakhurst Rise, which would bring a multitude of problems and disadvantages to Charlton Kings and the wider Cheltenham

community. The Land directly adjoins the Battledown Estate's southern boundary and so any development thereupon would directly affect a number of properties on the Estate. This application may well be for approximately one third fewer homes than the previous application but the arguments for refusing permission for the scheme remain for the greater part the same as those put forward at the time of the August 2017 application (rejected), the October 2018 scheme (rejected) and the appeal inquiry conducted by an Inspector from HM Planning Inspectorate in August 2019 (dismissed).

From the voluminous documentation produced relating to the previous applications and the already considerable documentation submitted for this new application, it is abundantly clear that none of the grounds on which the Trustees previously objected have been adequately addressed. Inaccurate statements contained within the documentation submitted for this application have already been highlighted by other professional and concerned consultees. Nevertheless, for good order's sake, we repeat the Trustees' observations and primary objections to the proposed development herewith :

a) Considerable loss of privacy would be suffered by a number of Estate properties and residents, owing to the proposed positioning and height of the dwellings on the Land immediately adjoining the Estate's southern boundary.

b) There would be noticeable degradation to the environment of the Estate owing to the significant increase in 'noise pollution' which would be generated by the proposed 43 dwellings, once completed.

c) There would be a material and dangerous increase in the risk of flooding for a number of Estate properties located in Birchley and Ashley Roads. In 2007, several Estate houses including some adjoining the proposed development Land, were badly flooded; this situation can only be exacerbated by the proposal to cover such a significant proportion of this Land with concrete, tarmac and buildings which would prejudice the delicate balance of springs, pools and flood-ameliorating water absorption on this land.

d) In common with many other residents in this area of Charlton Kings, all residents on the Battledown Estate would be affected by the material increase in traffic which would inevitably result from the building of these proposed 43 homes, as such a significant increase in traffic would affect many roads in the area, including Sixways Junction, Hales Road, London Road, King Alfred Way and Athelney Way, as well as those narrow roads immediately adjacent to the proposed development site --- and the 'knock-on' effects would severely affect and inconvenience many thousands of local residents in Charlton Kings and the eastern part of Cheltenham. In a nutshell, the local infrastructure and road system is already choked at peak periods and is simply inadequate for the existing traffic (as already acknowledged by Gloucestershire Highways), let alone the critical increase in traffic consequent upon the construction of these additional homes.

e) Furthermore, this proposed development would increase the dangers for both cyclists and pedestrians. Quite apart from the unacceptable gradients and road widths on the residential streets which are designated as Access to the Land, one should also appreciate that the application necessitates severe street gradients within the proposed development site itself. Nowhere in the Applicant's documentation is this defect highlighted as it should be and so we believe this important detrimental aspect, compromising safety, should once again be brought to the attention of the Planning Committee members. Importantly, it should be clear to both CBC Planning Officers and Planning Committee members, that this site and the access thereto is totally unsuitable for wheelchair users and those with some other physical disabilities; this would inevitably mean complete reliance on motor vehicles for any such putative residents.

f) We also object on the grounds that the views of this area of Battledown as seen from the nearby AONB will be permanently blighted, in contravention of national planning regulations

and, in this context, we support the strong objections made by Historic England on similar grounds.

g) It is also worth noting the remarks of HM Planning Inspector written at the time he made his decision to reject the Applicant's Appeal in September 2019, viz. :

83. Be that as it may, the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.

84. As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this Listed Building. Having regard to the statutory duty under s66 of the PLBCA, the effect of the development on the setting of Charlton Manor also would be contrary to Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

This new proposal for development has moved housing back by some thirty metres and has increased screening but it is still visible and prominent in views from the important west-facing windows at Charlton Manor, a property located within the Battledown Estate.

h) From the very important perspective of Amenity, we object owing to the permanent and irretrievable degradation of a valuable outdoor sporting facility used regularly by children from all over Cheltenham and, indeed, Gloucestershire, together with the unacceptable additional strain that such a development would place on local GP surgeries and school places -- neither of which are able to meet the demand consequential upon such a noteworthy increase in local housing.

There are many reasons to approve different housing development schemes; however, the Trustees believe that it would be misguided for any Planning Committee to approve a scheme such as this proposal, which would do irreparable harm to the local community and blight the environment of the existing electorate.

A significant majority of Borough Councillors on the Planning Committee have rejected previous applications for building over this meadow-land for very good reasons. This latest application singularly fails to address in a convincing manner many of the grounds for refusing previous applications cited by both Borough Councillors and the Planning Inspectorate and, even worse, perpetuates much of the inaccurate information submitted at the time of those previous applications.

Exactly the same multitude of planning considerations apply to this new application and therefore the Trustees anticipate and request that the same judgements will be made once again, to the clear benefit of the existing local communities in both Charlton Kings and the wider borough of Cheltenham.

### **Natural England**

*8th June 2020*

Thank you for your consultation on the above dated 01 May 2020 which was received by Natural England on the same day. We are sorry for the delay replying.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

### SUMMARY OF NATURAL ENGLAND'S ADVICE

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>
- damage or destroy the interest features for which the Cotswolds and Commons and Beechwoods Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

Mitigation as set out in the Council's Habitats Regulations Assessment (HRA) Appropriate Assessment must be secured.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

#### Further advice on mitigation

Natural England concludes from the submitted ecological appraisal and comments from the County Ecologist that the Council intends to rely on the Habitats Regulations Assessment (Including stage 2 - Appropriate Assessment) produced in respect of a previous planning application for the application site - reference 18/02171/OUT. A copy of the HRA from this previous application should be attached to the submitted documents posted on the Council's website.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

The Homeowner Information Pack should present information describing informal recreation opportunities in the following sequence:

- Public space on your doorstep
- A short drive by car or bus
- Further afield – e.g. The Forest of Dean, the Severn Estuary

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The proposed HIP leaflet for Hunts Grove, Quedgeley (produced by Crest Nicholson. Gloucester City Council and FPCR) provides a useful example.

### Sites of Special Scientific Interest (SSSI)

SSSIs with public access also exist closer to the application site than the Cotswold Beechwoods SAC. These include:

- Leckhampton Hill and Charlton Kings Common
- Crickley Hill & Barrow Wake
- Cotswold Commons and Beechwoods

In addition, Cleeve Common lies 4.0Km to the north-west.

Education and awareness raising measures designed to address the recreation theme in relation to the European Site described above should be designed to help avoid disturbance to wildlife and encourage awareness of these sites' sensitivities. Provided this holistic approach is taken we do not anticipate adverse effects on these SSSI's notified features.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

### Other advice

#### Green infrastructure

Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England would encourage the incorporation of GI into this development.

Adopted Joint Core Strategy policy INF3 and the JCS Councils' Green Infrastructure Strategy 2014 refer. Emerging Cheltenham Plan policy GI1 may also be relevant.

Consideration should be given to what opportunities exist to integrate green infrastructure delivery with measures that serve to offer alternative walking, running and cycling routes for new residents. Such measures may form part of a package that positively manages additional recreation pressure on local resources, as well as the SSSIs described above..

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

### **Cheltenham Flood And Drainage Panel**

*26th May 2020*

See **Appendix 6**

## **Environmental Health**

*13th May 2020*

After considering the documentation submitted as part of this proposal there are only very minor issues of concern from an Environmental Health perspective as per the previous revisions of this application. As such I would recommend approval subject to the following condition being attached to any approved permission:

'No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- Arrangements for liaison with the Council's Pollution Control Team.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours.
- Method of prevention of mud being carried onto highway.
- Waste and material storage.
- Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

## **Gloucestershire Badger Trust**

*27th May 2020*

See **Appendix 7**

## **Section 106 Officer**

*5th June 2020*

See **Appendix 8**

**The Woodland Trust**

*15th June 2020*

See **Appendix 9**

**County Archaeology**

*7th May 2020*

Thank you for consulting me concerning the above planning application. I wish to make the following observations regarding the archaeological implications of this scheme.

I advise that in connection with a previous development proposal on this site a programme of archaeological desk-based assessment, geophysical survey and trial-trenching was undertaken. Reports on the results of these investigations were submitted in support of application 18/02171/OUT.

No significant archaeological remains were observed during the investigations, and on that evidence it is my view that the application site has low potential to contain such remains.

In addition, I note from the current application details that the ice-house will be preserved within open ground, and will remain in situ and undisturbed should the development proceed.

Therefore, I confirm that in my view the proposed development will have no impact on archaeological remains, and I recommend that no further archaeological investigation or recording should be required in connection with this scheme.

**Minerals And Waste Policy Gloucestershire**

*7th May 2020*

All of the details set out within this section are made by officers on behalf of Gloucestershire County Council in its capacity as the Mineral and Waste Planning Authority (MWPA): -

All major planning applications (10 or more dwellings, residential sites of 0.5ha or more and other development in excess of 1,000m<sup>2</sup> or over 1ha) should be accompanied by an appropriately detailed Waste Minimisation Statement (WMS).

The production of a WMS is a specific requirement of the development plan for Gloucestershire as set out under WCS Core Policy 02 - Waste Reduction. It is needed to show how waste arising during the demolition (including site preparation), construction and occupation of development will be minimised and managed, and how recycling during the occupational life of the development will be provided for.

**Recommended action**

Not engaging or providing insufficient information in respect of waste minimisation matters could put at risk the acceptability of proposed development. The failure to address waste minimisation may be a reasonable ground for a decision maker to refuse planning permission. Therefore a Waste Minimisation Statement should be requested.

Conditions recommended by officers on behalf of the MWPA (if advised)

Condition:

No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i) Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii) Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

### **County Ecologist**

*2nd June 2020*

Original comments provided – updated on *2<sup>nd</sup> September 2020* - See **Appendix 10**

*8<sup>th</sup> September 2020* - New Ecological Information

You have asked me to comment on new ecological information recently received by the Local Planning Authority in connection with application 20/00683/OUT. The new information is as follows:

- Bioscan letter to you dated 29/07/2020
- Bioscan prepared 'Gloucestershire Key\* Wildlife Site Assessment Sheet'
- Aspect Ecology 'Botanical Survey 2020, Technical Briefing Note TN09: Results of Botanical and NVC Survey' dated 05/08/2020
- Aspect Ecology letter to you dated 10/08/2020
- Gloucestershire Wildlife Trust letter to you, Aspect Ecology and myself dated 07/08/2020 • Gloucestershire Wildlife Trust letter CBC Planning dated 01/09/2020

These documents are of a technical nature and I have considered these in detail. I have also had the opportunity to visit the site on 06/08/2020. I am familiar with Defra's draft Biodiversity Net Gain metric 2.0 and its use in a number of recent planning matters. I also have experience of the selection process for Local Wildlife Sites (I was a member of the Selection Panel when it was last active under the formerly named 'Key' Wildlife Site system).

I have come to the following conclusions.

1. The site was much as I had expected it to be and my advice to you in my memo dated 01/06/2020 does not require revising.
2. After reading all the recent submissions and visiting the site I am inclined to agree more with Aspect Ecology's assessments and assertions than those of Bioscan. Defra's Biodiversity Net Gain Metric 2.0 is not the finished product and has a number of shortcomings. The metric is only a rough guide and is no substitute for full assessment by

professional ecologists. Unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.

3. In my opinion there was no convincing ecological case for the meadow to be designated a new Local Wildlife Site. The meadow is poor quality MG1 grassland (Mesotrophic Grassland Type 1 of the National Vegetation Classification) and of low conservation value.
4. The Local Wildlife Site Selection Panel recent decision to designate the site on the basis of its Value for Learning which is most relevant given the location of the adjacent school. A Local Wildlife Site designation does not preclude appropriate development and the Wildlife Trust letters reflects this point. The development provides an opportunity to secure the long-term conservation and enhancement of local biodiversity. A large area of the site would become better managed and provide an improved educational resource for the adjoining school.
5. Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
6. The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity. Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location.
7. The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
8. The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

\*Renamed Local Wildlife Sites in January 2019

### **Contaminated Land Officer**

*20th May 2020*

No adverse comments.

### **Ancient Trees Forum**

*15th June 2020*

The Ancient Tree Forum (ATF) is a charity which has pioneered the conservation of ancient and veteran trees and their associated habitats such as ancient wood pasture and parkland. The ATF seeks to secure the long-term future of ancient and veteran trees and associated habitats through advocacy of no further avoidable loss, good management, the

development of a succession of future ancient and veteran trees, and seeking to raise awareness and understanding of their value and importance.

The ATF objects to this application because the way veteran trees have been identified means that trees, which should be protected by planning policy and meet the criteria set out by the guidance (National Planning Policy Framework glossary (2018), Standing Advice (2019) and Planning Policy Guidance (2019)), have been wrongly excluded. They are a significant factor in considering this application.

We set out our rationale for identification of ancient and veteran trees in relation to NPPF in Annex 1. In line with the government guidance, it is our view that for a tree to be categorised as a veteran, it should primarily have key decay features (including branch death or hollowing) and such features should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality). NPPF glossary states that a veteran tree does not need to be old enough to be ancient but does not define any specific size or age criteria to be met. However, it is our interpretation of the guidance, that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop.

The ATF therefore interprets the guidance to mean that trees which have the appropriate key decay features and are also mature or ancient should be considered as irreplaceable habitat and are the trees to which the policy in para 175c of the NPPF applies.

We strongly disagree with the categorisation methodology used in the tree survey. The first step of the applicant's tree consultant's methodology is to eliminate trees which do not have a "very large girth" before consideration of veteran characteristics. In our view this step is not justified by NPPF or other government guidance.

It is our view that at least two trees should be re-categorised as irreplaceable veterans and protected from harm by appropriate buffer zones. They are the mature trees numbered T3010 and T3014

The Tree Survey states that T3010 is mature tree and has "Fistulina hepatica fruiting body on root buttress at ground level east. Laetiporus sulphureus on old branch loss wound at 2 metres south. Numerous habitat holes within branch structure indicating heartwood fungal decay is well progressed." Decay or hollowing evidenced by heart-rot decay fungi is a clear criterion for veteran categorisation and the applicant's tree consultant accepts this too. Although it is the view expressed in the tree survey that this tree may not survive long term, there is no indication why it is judged not to be able to survive long-term nor what time period that might be. There is no reference to life expectancy/longevity of the tree in the NPPF and therefore this should be disregarded in categorising a tree as a veteran. The extra protection that a buffer zone would provide, and should be allocated to this tree, would mitigate the possibility of deterioration resulting from development pressures - the very purpose for which it is intended. According to Standing Advice the Buffer Zone should be "at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter." Due to the proximity of this tree to proposed buildings the Buffer Zone may need to be greater than the minimum to avoid future intervention on the grounds of risk.

Tree number 3014 is recorded as OM/over-mature in the survey. It is recorded as having a stem diameter of 930mms and in the Raven assessment as 148 years old and not of an 'age or size to merit veteran descriptor'. We assume the OM label is a error. However, it is recorded as mature and having "bark wounding after historic lightning strike seen as broad tongue of bark loss from ground level south extending into upper crown structure, exposed and desiccated non-functional heartwood within the affected stem section comprises large volume dead wood Scattered dead wood and smaller distal decline." It

is quite clear from this description and images on the Ancient Tree Inventory that the trunk of this tree is hollowing and has a large volume of deadwood in the trunk. This tree definitely has substantial and long-lasting veteran characteristics which accord with Standing Advice, it is mature and therefore is a veteran tree and should be given proper protection by an appropriate Buffer Zone.

Other mature trees on site may also be veteran trees but we do not have enough information on which to confirm their status but the LPA must be assured one way or another. The Ancient Tree Inventory is a citizen science project and has not required surveyors to assess trees according to NPPF as it started in 2005 which is well before the planning policy changes in 2018. The tree records on it however are good indicators of whether trees are ancient or veteran. For example, T3015 is listed as a veteran on the Ancient Tree Inventory and the record states that it has hollowing branches - substantial enough features on such a large tree to be good veteran characteristics. In addition, the Tree Survey, provided with the application, confirms that there are "large dead limbs scattered through the crown". Dead branches are given as a key veteran tree criterion in Standing Advice. It is very likely that this mature oak is a veteran for the purposes of NPPF and therefore should be given the protection of an appropriate buffer zone.

We would strongly recommend that the trees on site are resurveyed to identify whether other veteran trees have been overlooked.

Annex 1: The Ancient Tree Forum's interpretation of the application of National Planning Policy Framework's protection measures for ancient and veteran trees.

The National Planning Policy Framework (NPPF) in England refers to ancient and veteran trees in three places:

1) in Conserving and enhancing the natural environment document, para 175c:

development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

2) and in Annex 2: Glossary:

**Ancient or veteran tree.** A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

**Irreplaceable habitat:** Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees,...

In terms of applying the NPPF to a development proposal and to relevant trees, the first step must be to identify if a tree is ancient or veteran. The glossary, to be used in this context, describes three characteristics i.e. age, size and condition, which contribute to the stated values of biodiversity, cultural and heritage value of both ancient and veteran trees. There is no guidance on the parameters of age (except that veterans can be younger than ancient trees), or size or the meaning of condition.

In relation to ancient trees, the ATF considers ancient is a life-stage indicated by the chronological age of the trunk, using trunk girth only as a guide. Trees in this ancient life-

stage usually also have well-developed key veteran decay features as a consequence of ageing. It is ATF's view that all ancient trees are exceptional and irreplaceable for their cultural and heritage values, but specifically, for the application of NPPF policy 175c, they all have irreplaceable habitat.

In relation to veteran trees, the NPPF glossary only distinguishes by age those trees that 'are not old enough to be ancient, but are old relative to trees of the same species.' Planning Policy Guidance (2019 and FC & NE Standing Advice (2018) give some further guidance in relation to age (see bold below) and also condition (see underlined below):

PPG: Ancient trees are trees in the ancient stage of their life. Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.

Standing Advice: A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity

Both of the above documents provide examples of relevant features relating to condition i.e branch death and hollowing. But, neither these nor the NPPF glossary, give guidance or information on the amount, volume or quality of these features. In line with the available guidance, the ATF consider, that a tree to be categorised as a veteran for the application of NPPF policy 175(c) should have key decay features (including branch death or hollowing) which should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality).

For a tree to have developed decay features of branch death or hollowing which could be judged to be irreplaceable habitat, it will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop. Threshold dimensions for veteran characteristics are recommended in the Veteran Trees Initiative: Specialist Survey Method but these may not be appropriate for all species of tree, especially those of a smaller stature (Fay, N. and de Berker, N. (1997): Veteran Trees Initiative: Specialist Survey Method. English Nature, Peterborough, UK). For example, in terms of dead wood in the crown of the tree the unit of value is "each 1m length over 15cm in diameter".

According to the glossary, a veteran tree does not need to be old enough to be ancient. However, it is likely that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in a mature life-stage.

In conclusion

All ancient trees of whatever species or size should receive the level of protection stated in para 175c.

Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

## 5 PUBLICITY AND REPRESENTATIONS

5.1 On receipt of the application 383 letters were sent out to individual addresses site notices were posted at the entrance to Oakhurst Rise and on London Road, near the entrance to St Edwards School and an advert was published in the Gloucestershire Echo. In response to the

publicity, and at the time of writing, 248 representations have been received, 140 of which were objecting to the scheme and 108 of which are in support.

5.2 The main objections raised in the objections include, but are not limited to:

- Impact on wildlife/protected species
- Loss of trees and hedgerow
- Impact on local road network/inadequate access/gradient
- Access to public transport is not good
- Increased risk of flooding & surface water run-off/subsidence
- Impact on local infrastructure – doctors and schools
- Lack of access to local facilities
- Size and design of dwellings
- Noise and disturbance
- Impact on air quality
- Loss of recreation/school and community use of the site
- Loss of green space
- Impact on landscape
- No need for the development
- Impact on archaeological remains
- No significant change from dismissed appeal

5.3 The comments raised in support of the scheme include, but are not limited to:

- Need for homes
- Need for affordable housing
- Within built up area of Cheltenham
- Opportunity for school
- Biodiversity net gain
- Reduction in flood risk
- Benefit to the local economy
- Complies with planning policies
- Well-designed scheme with plenty of open space

It is worth of note that a number of the letters of support for this application are from properties outside of the District.

## 6 OFFICER COMMENTS

### 6.1 Determining Issues

6.1.1 The main considerations when determining this application are considered to be the principle of developing the site for housing; impact on the historic environment; impact on trees and hedgerows; wildlife and biodiversity; access and highway safety; landscape and visual impact; drainage and flooding; design and layout; impact on neighbour amenity; affordable housing and other planning 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 planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is reiterated in paragraph 47 of the NPPF which also reiterates that decisions on planning applications should be made as quickly as possible.

- 6.2.2 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 planning permission unless:*
    - i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear 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.*
- 6.2.3 The development plan comprises a small number of saved policies of the Cheltenham Borough Local Plan Second Review 2006, the Cheltenham Plan which was adopted in July 2020 and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 (JCS).
- 6.2.4 Material considerations include the National Planning Policy Framework (NPPF) and Planning Practice Guide (PPG).
- 6.2.5 Policy HD4 of the newly adopted Cheltenham Plan allocates this site for housing development. The policy outlines the following site specific requirements:
- A minimum of 25 dwellings, subject to masterplanning (in accordance with policy SD4 of the JCS) which demonstrates that the development can be achieved whilst accommodating:
  - Safe, easy and convenient pedestrian and cycle links within the site and to key centres
  - A layout and form that respects the existing urban characteristics of the vicinity
  - A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
  - Protection to key biodiversity assets and mature trees
  - New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.
  - Long term protection of mature trees and hedges
  - Any development on the site should secure improvements to the Ice House.
- 6.2.6 By virtue of this policy, the development of the application site for housing must be considered acceptable in principle.

- 6.2.7 It is acknowledged that the policy states a minimum of 25 dwellings, whereas the proposal is for 43 dwellings. There is no conflict in policy given that the number of dwellings is stated as a minimum. There is no reason why the site could not accommodate more, provided the scheme is found to be acceptable, based on the policy framework as outlined above. In section 11 of the NPPF (Making Effective Use of Land), it states that planning policies and decisions should support development that makes efficient use of land. It goes on to say that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Given the constraints of the site, the developable area is limited and therefore the density overall is relatively low in any event. As such in the opinion of officers the proposed number of dwellings is acceptable in principle.
- 6.2.8 Also of relevance is the fact that the Council is currently unable to demonstrate a five year housing land supply. At the last calculation the figure stood at 3.7 years. At the time of the appeal for 18/02171/OUT the figure stood at 4.6 years. As such the shortage is more acute than it was in considering the previous application. The current proposal would make a valuable contribution of 43 dwellings and this is a significant benefit of the scheme.
- 6.2.9 In the appeal decision for 18/02171/OUT the Inspector stated that at the time the emerging policy HD4 could be accorded only little weight compared with the policies of the adopted development plan. He said that whilst there was no objection in principle to residential development on the appeal site, the proposal fell to be assessed and determined primarily with respect to the adopted development plan, subject to its consistency with the National Planning Policy Framework.
- 6.2.10 The situation with respect to the development plan has clearly changed in the intervening time period with the Cheltenham Plan having now been adopted. The presumption in favour of sustainable development in the Framework for decision making means: *“approving development proposals that accord with an up-to-date development plan without delay”* and in cases whereby the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, granting permission unless either paragraph 11(d)(i) or 11(d)(ii) of the Framework as set at 6.2.2 above apply.
- 6.2.11 As mentioned at 1.9 the Inspector dismissed the appeal primarily based on the adverse impact to the significance of designated heritage assets by way of less than substantial harm. He also identified harms in relation to trees, biodiversity and access although he acknowledged that these harms would not collectively or separately have outweighed the benefits of the scheme. Whilst this report will cover all relevant considerations, these are considered to be the most crucial in determining whether previous concerns have been overcome.

### 6.3 Impact on the historic environment

- 6.3.1 JCS policy SD8 requires both designated and undesignated heritage assets and their settings to be conserved and enhanced as appropriate to their significant, and is consistent with paragraph 192 of the NPPF that advises that in determining planning applications, local planning authorities should take into account:
- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
  - *the positive contribution that conservation or heritage assets can make to sustainable communities including their economic vitality; and*
  - *the desirability of new development making a positive contribution to local character and distinctiveness.*

- 6.3.2 Additionally, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA), in considering whether to grant planning permission to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this case, it is the setting of the listed buildings that must be considered.
- 6.3.3 Framework paragraph 193 gives great weight to the conservation of designated heritage assets (the more important the asset, the greater the weight should be). Paragraph 194 provides that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Further paragraphs 194 – 6 consider harm to designated heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.3.4 The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. The PPG refers to the extent and importance of the setting to the visual relationship between the asset and proposed development. Views of or from an asset will play an important part. The contribution a setting makes to the significance of an asset is not dependant upon public access.
- 6.3.5 There are two listed buildings in close proximity to the application site; Charlton Manor, a grade II listed building located to the northeast of the site within the Battledown estate, and Ashley Manor, a grade II\* listed villa within the school grounds to the southeast. Additionally an historic Ice House is also located within the application site itself. Whilst the site is physically separated from these listed buildings, there are clear views into the site from these heritage assets.
- 6.3.6 Policy HD4 of the Cheltenham Plan contains specific requirements with regards to heritage assets:
- **A layout and form of development that respects the character, significant and setting of heritage assets that may be affected by the development** – This will be discussed further below.
  - **Securing improvements to the Ice House.** - The current proposal would see the Icehouse situated within an area of open land, as opposed to the appeal scheme which saw it surrounded on 3 sides by road and to the south by a footpath and pond. This will ensure it remains legible as a feature within the landscape and visually linked to Ashley Manor. Specific improvements to the Icehouse are proposed including the selective clearance of scrub, whilst retaining the mature trees in order to reveal the mound more clearly. It is also proposed to provide an interpretation board providing information as to the history of the Icehouse.
  - **New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building.** – The plans clearly indicate that this has been achieved through the current layout.
  - **Provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor** – To the rear boundary of Charlton Manor there is over 65m to the nearest part of the development and over 70m to the nearest dwelling. A landscaping belt is provided along the eastern edge of the development which varies in width between 8 – 30m. This is curved to leave an

undeveloped area around the Icehouse and is approximately 30 – 90m from the rear boundary of Charlton Manor.

- 6.3.7 In the appeal decision relating to 18/02171/OUT the Inspector concluded that the harm to the settings of Ashley Manor and Charlton Manor, whilst less than substantial in terms of Framework paragraph 196, was nonetheless significant. With regards to Ashley Manor the Inspector stated that the land has a functional relationship with the manor as farmland (as opposed to managed parkland) and as the site of the Ice House. He also observed that presently direct views are available from Ashley Manor onto the currently mainly open, eastern part of the site, including the Ice House. The site, rising to the north provides a green backdrop to the Manor in distant views. With regards to Charlton Manor, views are available across the site and beyond. He therefore recognised an historic and visual association between the application site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. The application site, including the Ice House contribute to the historic and visual settings of both these designated heritage assets.
- 6.3.8 With regards to Ashley Manor the Inspector found that proposed landscape planting on the southern boundary would obstruct the relationship of the Manor to this part of its setting. Some of the plots of the previous application(27 – 30) would have intervened prominently in views to the north from the Manor House, impeding appreciation of the Ice House and rural backdrop. He concluded that these effects on the visual relationship between the Grade II\* Ashley Manor and the application site would have a very significant adverse impact upon the setting of the Listed Building.
- 6.3.9 With regards to Charlton Manor the main effects identified were the partial obscuration of distant views and the obscuration of the Ice House by intervening dwellings (plots 31 – 34 of the previous application). The Inspectors concluded that views of the manor from within its setting to the west would also have been compromised. As with Ashley Manor it was considered that these effects on the visual relationship between the Grade II Charlton Manor and the application site would have a very significant adverse impact also upon the setting of this Listed Building.
- 6.3.10 The scheme now under consideration has made significant changes to the layout in an attempt to address the issues raised within the appeal decision. Further to the points outline in 6.3.8 above; the proposed landscape planting on the southern boundary has been removed. There are now no buildings proposed in the areas of plots 27 – 30 as previously proposed and a large area of open grassland would be retained north of Ashley Manor, continuing up the site. This has had the effect of vastly improving the visual relationship between Ashley Manor and the site.
- 6.3.11 Similarly with Charlton Manor, the plots mentioned have been removed and there would be a clear view from Charlton Manor towards the Ice House across the retained grassland.
- 6.3.12 The Conservation Officer has provided a thorough assessment of the proposals. The comments acknowledge the changes which have been made in order to address the concerns; limiting built form the north-west of the application site, preserving the existing rural setting to the north of Ashley Manor and a notable finger of land to the southern section of the site. The introduction and reinforcement of extensive landscaping between the development and retained rural setting softens the impact. The visual link to the Ice House is retained, as its rural setting.
- 6.3.13 However it is fully acknowledged that the proposal does result in a loss of part of the wider open backdrop and the character of the remaining setting is changed from large open fields to one where the open space is diminished and strong bands of trees become more prominent. Whilst the proposed landscaping scheme becomes established there may also be views of the proposed dwellings from the listed buildings. The views across the field

from Charlton Manor would be truncated and its open setting reduced. It is therefore considered that there is a measure of less than substantial harm which will need to be weighed against the public benefits of the proposal.

- 6.3.14 The overall planning balance will be considered below, however given the improvements which have been made to the scheme, and the benefits arising, the conservation officer does not object to the proposal.
- 6.3.15 Historic England (HE) has objected to the proposal. They acknowledge that the proposal represents a less intensive form of development than the previous scheme, however they still consider that the severance of the setting of Ashely Manor and the encroachment of development and associated landscaping towards the Grade II\* building is harmful and an unacceptable quantum and form of development. They state that it is their continued view that it is the entire application site which makes an important contribution to the setting of the Grade II\* listed building and not just the areas closest to it.
- 6.3.16 HE acknowledge the allocation of the site for housing through policy HD4 of the Cheltenham Plan but consider the proposal does not achieve an acceptable level of respect to the setting of heritage assets and that significant adjustments need to be made to demonstrate how allocation HD4 can be delivered in a way that the setting is not harmed to this extent.
- 6.3.17 Whilst the concerns of HE are understood, officers disagree with their conclusions. The site is the subject of a housing allocation and in delivering this it is inevitable that the setting of these listed buildings will be changed. The scheme has made some significant changes directly resulting from the specific concerns of the previous appeal inspector and complies with the measures outlined in policy HD4 which were designed to lessen the impact upon the setting of these buildings. Furthermore in the opinion of officers, HE do not acknowledge the public benefits of the scheme which include the delivery of market and affordable housing, net gains to biodiversity, benefits from long term management of mature trees and hedges, economic benefits from employment during construction and indirect employment following occupation and improvements to the ice house.

### 6.4 Impact on trees and landscaping

- 6.4.1 Cheltenham Plan policy G12 states that the Council will resist the unnecessary felling of trees on private land. For protected trees the Council require any tree which has to be felled to be replaced where practicable and pruning, where it is necessary to be undertaken so as to minimise harm to the health or appearance of the tree. Cheltenham Plan policy G13 states that development which would cause permanent damage to trees of high value will not be permitted. 'High Value' means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of the locality. These policies are consistent with the aims and objectives of JCS policy INF3 which provides additional advice in respect of green infrastructure.
- 6.4.2 Paragraph 175 (c) of the NPPF advises that planning permission should be refused for development resulting in the loss of ancient or veteran trees *"unless there are wholly exceptional reasons and a suitable compensation strategy exists."*
- 6.4.3 The current application with its revised layout has allowed more trees to be retained than were previously proposed. It was previously proposed that a TPO tree; tree 3014, a mature oak, would be removed. This tree would now be retained. The revised layout also removes all construction from veteran tree buffers and removes all gardens from within veteran tree buffer zones.
- 6.4.4 Some trees would be removed as part of the proposal however all of the high quality category 'A' trees would be retained. One Ash and One sycamore, both of approximately 14m in height would be the only trees within the moderate 'B' category to be removed. 90%

of category B trees would be retained. There are a number of 'low quality' or category C trees to be removed. These are considered to be unremarkable, in impaired condition or have a primary 'collective value'. The Tree Officer has raised no objection to the proposal subject to conditions including tree protection measures, provision of detailed planting plans, details of veteran tree buffer, landscape management plan, details of foundation design.

- 6.4.5 The tree officer suggested that a landmark tree could be provided within the eastern portion of the site. This request was considered in conjunction with the conservation officer, however it was considered that the planting of a large 'feature' tree might interfere with the visual link between the two listed buildings and the ice house and the remainder of the open land in this area.
- 6.4.6 The Woodland Trust (WT) and The Ancient Tree Forum (ATF) have both objected to the proposal on the grounds that some trees have been misclassified and should be classified as veteran trees and therefore given greater protection through increased buffer zones. The applicant's Arboriculturist has provided a response to the representations received. To summarise; they disagree that any tree has been wrongly excluded from the list of those identified as veterans. They use an ancient, veteran and notable tree recognition system known as RAVEN to assist in classifying trees. WT and ATF have questioned the validity of this system. However in the appeal decision for 18/02171/OUT, the Inspector considered that the assessment covered all the trees on the site in the light of the applicable definition of veteran and ancient trees in the glossary of the NPPF which is as follows:

*"A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage."*

- 6.4.7 The applicant's arborist considers that the ATF in their comments rely too heavily on the condition of the tree without considering the age and size, as required by the NPPF definition. Similar comments have been made in response to the WT comments which, they say, misidentifies a number of trees as veteran.
- 6.4.8 It is clear that this is an area in which there is a degree of subjectivity, however the classification system which has been used in this case is the same as that which was found to be appropriate by the Inspector at appeal. Officers are confident that the trees have been correctly classified, having regard for the definition within the NPPF.
- 6.4.9 Reason for Refusal number 2 on the previous refusal reads as follows:

*The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a Veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons. The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), and paragraph 175(c) of the National Planning Policy Framework (2019).*

- 6.4.10 The Inspector did not dismiss the appeal on the grounds of the impact on trees. At para. 65 he confirmed that he was satisfied that the measures proposed to safeguard the long term welfare of the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. He did, however state that there was a degree of risk to the longevity of these trees, given the relative density of the proposed development and the additional access and activity in close proximity. This led him to conclude that there was an element of conflict with policies GE6, GE5 and INF3. These concerns added weight to his conclusion that the scheme should be refused

although he made clear that they would not, alone, have outweighed the benefits of the proposal.

- 6.4.11 As mentioned above the TPO tree that would have been removed in the previous application is now retained and the buffer zones for the veteran trees would be kept clear of any development, including being located within domestic curtilages and of any construction work. Therefore it is considered that the risk factors identified by the inspector have been largely overcome, subject to appropriate conditions being attached.
- 6.4.12 Although 'landscaping' is a reserved matter, the application is accompanied by a detailed Landscape Strategy which indicates the provision of high quality landscaping and new tree planting throughout the site.
- 6.4.13 Bearing in mind all of the above, officers are of the view that the proposal now accords with the relevant policy criteria in relation to trees and landscaping as identified above.

### **6.5 Wildlife and biodiversity**

- 6.5.1 JCS policy SD9 and advice set out within the NPPF at Section 15 seeks to ensure that development contributes to, and enhances the natural and local environment; 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.

#### Cotswolds Commons and Beechwoods Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

- 6.5.2 Policy BG1 of the Cheltenham Plan relates to the Cotswold Beechwood Special Area of Conservation 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.
- 6.5.3 It is known that residential developments, alone or in combination with other development, have the potential to result in increased recreational pressures. Natural England (NE) advised that without appropriate mitigation the application would have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation and damage or destroy the interest features for which the Cotswold and Commons Beechwoods Site of Special Scientific Interest has been notified.
- 6.5.4 To ensure these harms are not realised the LPA have prepared an 'Appropriate Assessment' (AA), a draft of which was agreed with Natural England. This AA has now been adopted by the LPA. It concluded that, either alone or in combination with other plans and projects, the proposed development would not adversely affect the integrity of the SAC subject to conditions requiring the implementation of further precautionary measures and the provision of a homeowner's information pack.

#### Trees and Hedgerows

- 6.5.5 The Hedgerows were resurveyed in April 2020. Hedge 1, to the west of the site is confirmed as still being important using the Hedgerow Regulations methodology. Hedge 2 is not considered to meet the importance test under the regulations. The hedgerows will suffer some degree of loss. The other hedgerows on the site are poorer quality and fragmented already. The proposed landscaping will improve the situation and the connectivity provided by hedgerows will be improved by significant new planting for a range of animal species. The residual impact of the modest tree and hedgerow loss will have little residual impact on biodiversity and a net gain overall.

## Protected Species

6.5.6 Reason for refusal number 4 of the previous decision reads as follows:

*The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally. The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175(a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.*

The Local Authority did not pursue this reason for refusal at the inquiry.

## Badgers

6.5.7 Badgers and their setts are protected under the Protection of Badgers Act 1992, the purpose of which is to protect the species from persecution.

6.5.8 An updated survey was carried out in April 2020. A previous survey carried out in October 2018 recorded a total of 5 badger setts. The main sett (BS1) had 15 active entrances, a smaller sett (BS5) has two entrances and is also considered to be active. The remaining setts (BS2, 3 & 4) were found to be inactive at the time of the survey. BS3 is in the vicinity of the icehouse and is unaffected by the development, however the remainder; BS1, BS2, BS4 and BS5 are all located at least partly within the proposed development footprint and would therefore be directly impacted by construction. As such it is proposed that these setts be permanently closed to facilitate the proposals.

6.5.9 Sett BS1 would be of high importance to the local Badger population and without mitigation the loss of this sett would significantly negatively affect Badgers within the local area. It is therefore proposed to create an artificial sett within the north east of the site to compensate for the loss of BS1. This is closer to the existing sett than the previously proposed sett. The closure of the existing sett will require a licence from Natural England. Sett BS5 is considered to be of low importance and is not used for breeding activities.

6.5.10 The foraging area for Badgers would be reduced by way of the development however it is considered unlikely that this would have a significant impact on the local badger population.

6.5.11 The ecological report sets out a mitigation strategy along with measures to lessen the impact upon the Badger population. It concludes that these measures will result in the status of the Badger Clan being maintained.

6.5.12 The County Ecologist has reviewed the survey and proposals and state that the revised proposals for mitigating any effect upon and conserving local badgers are acceptable.

6.5.13 Badger Trust Gloucestershire has raised concerns that insufficient attention has been paid to the presence of badgers or to any mitigation strategy should consent be granted for this application.

6.5.14 Paragraph 175 of the NPPF provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated, or as a last resort, compensated for, planning permission should be refused. Given the location of the main

badger sett it has not been possible to avoid it completely, especially bearing in mind the other constraints of the site. Therefore a combination of mitigation and compensation is proposed.

- 6.5.15 The process of moving the badgers is regulated by Natural England who issue licenses to interfere with setts for development purposes.
- 6.5.16 Officers are satisfied that the measures proposed are acceptable and given the retained area of grassland as part of this proposal represent an improvement upon previous proposals.

### Bats

- 6.5.17 All bat species, their breeding sites and resting places are protected by law as they are European Protected Species. A variety of bat species have been recorded on site and within the wider area.
- 6.5.18 The proposals will result in a few gaps in existing hedgerows however there is significant reinforcement planting proposed, along with the proposed tree belt which means that the overall impact upon bats would be positive. Conditions will be necessary to ensure the mitigation and enhancement measures outlined in the Ecological Appraisal are provided and to ensure no inappropriate lighting is provided.

### Birds

- 6.5.19 Nesting birds are protected by The Wildlife and Countryside Act 1981, and vegetation clearance should take place outside of the bird nesting season March to August, or the vegetation should be surveyed for nesting birds by a suitable qualified ecologist prior to works commencing.
- 6.5.20 The survey work demonstrates that a good variety of birds are present in the general area and on site mainly utilising the boundary trees and hedgerows. There are much potential nesting sites present but much of this will be retained. A number of mitigation and enhancement measures are proposed. The development would have a short term adverse impact but in the long-term there would be a positive overall outcome.

### Reptiles

- 6.5.21 Grass snakes and slow worms are protected by UK law. The surveys which have been carried out on the site have found a low population of reptiles consisting of only very few individual slow worms and grass snakes. The proposed mitigation and enhancement measures in addition to the proposed new landscaping should have a neutral - positive impact overall.

### Local Wildlife Site

- 6.5.22 In July 2020 Gloucestershire Wildlife Trust received a request to consider whether the application site might qualify as a local wildlife site (LWS).
- 6.5.23 Following a site visit and a subsequent meeting of the LWS selection panel on 1<sup>st</sup> September it was decided that the site passed the Gloucestershire Local Wildlife Site Selection Criteria 2015 under point 9. Value for learning – “*c. the site is exceptionally well-placed to offer educational opportunities either by its proximity to a school or other place of learning, or its easy accessibility for study of the species and habitats present without causing unacceptable damage or disturbance*”. The Panel also consider that the site may also pass the criteria for MG1 grassland plant species. Two sets of plant species data that were provided for the site by Aspect Ecology (applicants representative) and Bioscan

(Charlton Kings Friends representative) differ but between them provide a match for 22 species from table H5c of the LWS criteria.

- 6.5.24 Policy SD9 of the JCS states that development within local-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated.
- 6.5.25 Gloucestershire Wildlife Trust has provided comments on the biodiversity mitigation proposed as part of the application. The site is currently assessed as 'poor quality semi natural grassland.' However it would be possible to raise the quality to 'unimproved grassland' through more appropriate management of the site. There is an area of ladies bedstraw which the GWT suggest should be preserved. The applicant has committed to this. A significant area of grassland is retained through the proposals and this would not be accessible by the general public. There should be management plans in place to ensure that access is restricted, and to secure the proposed enhancements. Subject to these conditions GWT's view is that the mitigation and enhancements for the habitats and species recorded on site are adequate to achieve no net loss of biodiversity. The GWT and County Ecologist both suggest a covenant be placed on the remaining grassland preventing its development in perpetuity. Officers have sought legal advice on this suggestion and have been advised that such a clause would be unenforceable and is also unnecessary given that any development would require planning permission, bringing it into the control of the LPA.

### Overall impact on Biodiversity

- 6.5.26 A letter submitted by Bioscan, Ecologists acting for Charlton Kings Friends, asserts that the development is not compliant with JCS policy SD9 as it would result in a loss of biodiversity of 31.90%. They offer the view that the revised scheme provides no greater protection of biodiversity on the site than the previous scheme. This is based on their use of the Natural England metric which is currently available in a beta version for consultation.
- 6.5.27 In the appeal decision the Inspector attached little weight to the results of conflicting metric assessments although he did conclude overall that the net effect of the appeal scheme on biodiversity was likely to be either neutral or negative to some degree. However this did not form the main basis of his dismissal of the appeal and states that it would not have outweighed the significant benefits to the supply of affordable and market housing.
- 6.5.28 The applicant's ecologist has responded to Bioscan's assertions. They point out that the revised scheme is considerably reduced with increased areas of greenspace along with improvements to the ecological proposals and therefore the conclusion the scheme provides no greater protection of biodiversity than the previous scheme is inherently flawed. With regards to the use of the matrix they point out that with the measurement of the baseline: a) a more accurate measuring of the site should be used, b) the existing pond has been omitted and should be included, c) scattered scrub has been coded as 'other mixed woodland' in 'moderate condition' whereas this should be assigned to 'scrub' in 'poor' condition. With regards to the post-development inputs to the matrix they point out that: a) it is assumed that all habitats will be lost and recreated whereas the grassland will be retained and enhanced, b) the proposed pond has been omitted and should be included, c) the central hedgerow is ascribed as 'poor' condition whereas it should be considered 'good' as it will be controlled by way of a conservation management plan.
- 6.5.29 These changes to the parameters in the metric would result in a biodiversity net gain of 1.47%. The applicant's ecologists say that the metric is known to undervalue woodland creation and therefore they anticipate the net gain would be higher under the final version of the metric when it is released.
- 6.5.30 Officers have sought the advice of the County ecologist on this matter and he has stated that he is more inclined to agree with the applicant's ecologist. He points out that there are

a number of short comings in the metric and unfortunately Bioscan's use of the metric includes some errors and their conclusions undervalue the merits of allowing the development.

6.5.31 The County Ecologist offers the following conclusions:

- Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and greater retention of habitats and features. There is to be extensive tree/shrub planting, additional new habitat features and improved meadow management. Overall a biodiversity net gain can be secured with appropriate conditions and planning obligations in place as I have previously advised.
- The development if consented would be compliant with NPPF paragraphs 8, 170, 175 or 180. The proposal avoids significant harm to biodiversity and protects veteran trees. It makes effective use of the land and also provides a mechanism to secure a better more resilient future for biodiversity.
- Biodiversity improvements have been designed into and around the development. Given policy HD4 of the newly adopted plan [see below], the type and scale of the development appears to me to be appropriate for the location
- The development if consented would be compliant with JCS policy SD9. The development provides appropriate mitigation for some unavoidable effects but importantly positively conserves and enhances biodiversity overall which are relevant to the location.
- The development if consented would be compliant with policy HD4 in the recently adopted Cheltenham Local Plan. The development provides for long-term protection of mature trees and hedgerows on site, better commuting corridors and foraging areas for bats, and is an opportunity to enhance biodiversity overall.

6.5.32 Officers are therefore satisfied that the proposal has an acceptable impact upon wildlife and biodiversity.

### **6.6 Access and highway safety**

6.6.1 The proposed access is one of the 'fixed' elements of this outline planning application

6.6.2 Adopted JCS policy INF1 advises that planning permission will be granted only where the impacts of the development are not severe. The policy also seeks to ensure that all new development proposals provide safe and efficient access to the highway network; and provide connections to existing walking, cycling and passenger transport networks; and provide connections to existing walking cycling and passenger transport networks, where appropriate. The policy reflects advice set out within Section 9 of the NPPF. It is repeated in Policy HD4 of the Cheltenham Plan which states "*safe, easy and convenient pedestrian and cycle links within the site and to key centres*" as a site specific requirement.

6.6.3 Planning application 17/00710/OUT (the scheme for 90 dwellings) was refused for the following reason (amongst others):

*The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored. The access would therefore be at odds with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018).*

- 6.6.4 The subsequent application (18/02172/OUT – 69 dwellings) was not refused specifically on highway grounds. In the appeal decision the Inspector did consider access and traffic. He acknowledged that there were no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility or existing traffic flows. He was satisfied that an increase in traffic flow would not have a significant impact on the wider highway network. He did however express a view that the access route was ‘tortuous’ and ‘far from ideal’. Whilst he did not dismiss the appeal on grounds of access and stated that this concern either alone, or in combination with some other issues would not outweigh the benefits of the scheme, he did find that they supported his overall conclusion that the appeal should be dismissed.
- 6.6.5 The proposal has been assessed by the Local Highways Authority who have provided detailed comments which are provided in full. To briefly summarise, they conclude that the access, via Oakhurst Rise, is acceptable, as is the internal layout within the site. They acknowledge the gradient of the site and that it will be necessary to consider this when formulating detailed road design, however there are earthwork techniques which can be adopted to adequately deal with this. The parking provision shown on the indicative drawing is acceptable and cycle parking can be secured via condition. A non-motorised user’s assessment was undertaken which identified deficiencies in the surroundings walking/cycling network and routes to destinations which should be improved for non-motorised user’s accessibility, safety, comfort and convenience. Some improvements to pedestrian crossings are required and a condition is suggested to secure these improvements. The trip generation and impact on surrounding networks is reduced from previous applications and is considered to be acceptable. A Travel Plan will be prepared with the aim of increasing the use of public transport, car sharing, walking and cycling. The Highway Authority conclude that no objection should be raised subject to conditions.
- 6.6.6 Officers are content that the highways and access arrangements are successful; whilst members did not refuse the most recent application on these grounds, it is clear that the reduction in number of dwellings proposed on the site will lessen the impact further and the indicative plans show a scheme which would achieve the aims of JCS policy INF1 and Cheltenham Plan policy HD4.

### **6.7 Landscape and visual impact**

- 6.7.1 JCS policy SD6 advises that all development proposals must consider the landscape and visual sensitivity of the area in which they are located or which they may affect. As previously noted, the application site is not located within the Green Belt or Cotswold Area of Outstanding Natural Beauty, but does sit in an elevated position above the town.
- 6.7.2 As part of the consideration of previous applications and pre-application proposals, an independent landscape appraisal was undertaken by a chartered landscape architect at the request of the LPA. In their appraisal, the landscape architect identified the site’s topography and notable slope as a key landscape feature, and highlighted that, whilst it is not designated landscape, its elevated position affords views out across the town and provides the backdrop to a number of large properties within the Battledown Estate. Based on the information available to him at that time, the landscape consultant did not consider the site to be ‘valued landscape’ in terms of paragraph 170 of the NPPF which seeks to protect and enhance valued landscapes.
- 6.7.3 The NPPF does not define what is meant by ‘valued landscape’ but there is relevant case law on this subject. In this instance, officers do not consider that the site should be considered ‘valued landscape’ for the purposes of paragraph 170. Whilst the landscape clearly has a value attached to it, particularly by local residents, it is not considered to have any intrinsic features that specifically set it aside from other areas of non-designated landscape.

6.7.4 The previous application on this site (18/02171/OUT) was refused for the following reason:

*The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB. The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

6.7.5 The Local Authority did not pursue this reason for refusal at the inquiry. However the Inspector did comment on visual impact stating that he did not consider that the appeal proposal would cause harm to the appearance and character of the nearby Cotswold AONB.

6.7.6 The current proposal results in the retention of a large area of open grassland, additional landscaping and increased landscaping. As such officer are confident that the proposal has an acceptable visual impact within the landscape.

### **6.8 Drainage and flooding**

6.8.1 Adopted JCS policy INF2 and Section 14 of the NPPF seeks to ensure that new development is not inappropriately located in areas at high risk of flooding, and to ensure that development does not increase flood risk elsewhere and, where possible, contributes to a reduction in existing flood risk.

6.8.2 The application site located in Flood Zone 1 and is therefore assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). Additionally, the Environment Agency's Flood Risk Map below identifies the entire site as being at a 'very low' flood risk from surface water flooding, although it does identify some areas in close proximity to the site that are at a higher risk of surface water flooding. The LLFA also acknowledged in previous comments that there are significant surface water accumulations, and recorded incidents of flooding in the lower reaches of this catchment. It is therefore important to ensure that appropriate measures are provided to safely manage the flood risks arising from the increased run off from the development.

6.8.3 The application has been accompanied by a detailed Flood Risk Assessment (FRA) and drainage strategy which have been reviewed by the County Council, as the Lead Local Flood Authority (LLFA) responsible for managing the risk of flooding from surface water, groundwater and ordinary watercourses. The level of detail submitted to date is appropriate for an outline planning application.

6.8.4 The LLFA are satisfied that the information which accompanies this outline application "adequately describes a feasible strategy for the management of surface water on and from the development site" and raises no objection subject to a condition which requires additional detail, including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development, to be submitted and agreed at a later stage.

6.8.5 A representation has been received from the Cheltenham Flood and Drainage Panel which is critical of the submitted Flood Risk Assessment. This representation has been discussed with the LLFA who have provided the following response:

*Planning application 20/00683/OUT is an outline planning application with all matters reserved, as such I believe that the information provided through the FRA and drainage strategy is adequate at this stage in the planning process. Detailed drainage design can be conditioned and as requested in my response.*

*The comments from the group referring to themselves as Cheltenham Flood and Drainage Panel are proposal that we would expect to see addressed in the application for discharge of the condition requested. Many of the points will not be able to be addressed at this stage and it would be unreasonable to expect them to be answered for an outline permission.*

*In fact the level of detail for an outline proposal is quite comprehensive and there is certainly enough information to indicate that the site can be safely developed and surface water managed without putting the site or areas outside the site at increased risk of flooding. The proposal includes detail of where surface water will go, at what rates and how it can be controlled within the space available in the developed site to achieve that objective.*

- 6.8.6 None of the 2 preceding applications were refused on flooding and drainage grounds. The Inspector touched on it within the appeal decision stating there was insufficient evidence to show that a detailed scheme could not be satisfactorily drained.
- 6.8.7 Therefore officers are confident that the scheme is acceptable on flooding and drainage grounds.

### **6.9 Design and layout**

- 6.9.1 Layout and scale, together with the proposed access arrangements are 'fixed' elements of the scheme; however appearance is reserved for future consideration (as is landscaping).
- 6.9.2 JCS policies SD3 and SD4 set out the design requirements for new development proposals. These policies seek to ensure that development proposals are designed and constructed so as to maximise the principles of sustainability, and to ensure that all new development responds positively to, and respects the character of, the site and its surroundings. The policies are consistent with advice set out within Section 12 of the NPPF which emphasizes at paragraph 124 that "Good design is a key aspect of sustainable development..."
- 6.9.3 Additionally, JCS policy SD11 highlights the need to ensure that new housing developments provide an appropriate mix of housing to meet the local needs.
- 6.9.4 Policy HD4 of the Cheltenham Plan includes as site specific requirements; a layout and form that respects the existing urban characteristics of the vicinity; and a layout and form of development that respects the character, significance and setting of heritage assets which may be affected by the development.
- 6.9.5 The appeal scheme was not refused on design and layout grounds and the Inspector did not specifically touch on them, other than in respect of how they relate to the main issues. However the form of development now proposed has changed significantly since the previous submission with the most obvious change being the retention of a large area of open grassland in the south and western parts of the site and the provision of a significant landscaped belt between this area and the proposed development. The main route through the site is similar to the appeal application however due to the reduced developed area there are now three cul-de-sacs leading off this, rather than linked roads.
- 6.9.6 The appeal scheme included a number of small apartment blocks with associated car parks. The current scheme proposes primarily houses, mostly detached, semi-detached or in short terraces of 3 dwellings, with a small number maisonettes. No parking courts are proposed with the parking all proposed on, or very near to the associated dwelling. This results in a layout which more closely reflects the grain and layout of the adjoining residential areas. It is regrettable that the scheme does not include a wider variety of housing types. In terms of urban design, cul-de-sacs are not always the most successful form of development as they do not encourage connectivity and permeability across the site, although the constraints of the site mean this is unavoidable. However it is considered

that overall the proposal would result in a high quality residential environment, benefitting from generous landscaping and providing well laid out, comfortable homes.

- 6.9.7 A building scale plan has been provided which shows that most of the dwelling (27) would be 2 storeys with the remainder (16) being 2.5 storeys. 'Appearance' is a reserved matter and as such the design of individual houses is not known at this stage. However indicative plans have been provided which give an idea of how the houses could look. The indicative drawings of the 2.5 storey dwellings show a room in the roof served by velux windows. The final design would be the subject of a reserved matters application. However officers are confident that the scale of buildings proposed is appropriate for the site.

### **6.10 Neighbour amenity**

- 6.10.1 Policies SD14 of the JCS and SL1 of the Cheltenham Plan require that development does not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality.
- 6.10.2 Whilst it is acknowledged that outlook from some neighbouring properties would undoubtedly be altered by the development, officers are satisfied that the proposed layout would not result in any overbearing effect, nor loss of privacy or outlook; all properties achieve the minimum 10.5 metres distance to site boundaries. Additionally, the topography of the site, distances to boundaries, and general arrangement of the housing would not result in any significant impact on daylight or sunlight.

### **6.11 Affordable housing and other planning obligations**

#### Affordable Housing

- 6.11.1 Cheltenham Borough Council, together with the other JCS authorities, adopted the Community Infrastructure Levy (CIL) in October 2018, and introduced charging on 1st January 2019. This development would be liable for CIL.
- 6.11.2 CIL is now the tool to help local authorities to deliver infrastructure to support new development in the area, and is a tariff-style charge which is calculated per square metre of new development. In Cheltenham, the CIL rate for residential developments of between 11 and 449 dwellings is £200 per m<sup>2</sup>; however, there are some exceptions, for example, those parts of a development which are to be used as social housing, and selfbuild housing.
- 6.11.3 CIL sits alongside S106 agreements, which are still used to secure site-specific obligations which are needed to make a development acceptable in planning terms, particularly affordable housing.
- 6.11.4 Adopted JCS policy SD12 is the relevant policy for the provision of affordable housing in new developments. In Cheltenham, outside of Strategic Allocation sites, a minimum of 40% affordable housing is sought on sites of 11 dwellings or more. Where possible, the policy requires the affordable housing to seamlessly integrated and distributed throughout the development. The proposed scheme is compliant with the requirements of the policy.
- 6.11.5 The proposal has been the subject of discussion with the Council's Housing Strategy and Enabling Officer and the affordable housing now proposed is as a result of these negotiations. The comments of the Officer are provided in full.
- 6.11.6 The scheme delivers 18 affordable housing units (42%) and is therefore considered to be policy compliant. The mix of affordable dwellings on this site would be as follows:

42%	Social Rent	Affordable Rent (Capped at LHA levels)	Shared Ownership	Total	%
1b2p Ground Floor Maisonette M4(2) Cat 2 (50m <sup>2</sup> )-	2	0	0	2	28%
1b2p Upper Floor Maisonette (50m <sup>2</sup> )	2	0	0	2	
1b2p House M4(2) Cat 2 (50m <sup>2</sup> )	1	0	0	1	
2b4p GF Maisonette, M4(2) Cat 2, 71m <sup>2</sup>	0	1	0	1	44%
2b4p Upper Floor Maisonette, 71m <sup>2</sup>	0	1	0	1	
2b4p House, M4(2) Cat 2, 79m <sup>2</sup>	0	3	0	3	
2b4p House (67m <sup>2</sup> )	0	0	3	3	
3b5p House (82m <sup>2</sup> )	0	1	2	3	22%
3b6p House (95m <sup>2</sup> )	0	1	0	1	
4b7p House (108m <sup>2</sup> )-	1	0	0	1	6%
Total:	13		5	18	100%
	72%		28%		

6.11.7 The mix of dwellings proposed here is more reflective of Cheltenham's affordable housing needs than previously proposed dwelling mixed. A number of flats were originally proposed and they have been replaced with maisonettes and a house which allowed tenants to have their own front door, fostering a sense of belonging and community that is fundamental to creating a strong and sustainable community.

6.11.8 The layout was amended to ensure the affordable housing was better distributed around the site and to ensure that every affordable home has access to private outdoor space.

6.11.9 The provision of these affordable homes is a significant benefit of the proposal. As of May 2020, Cheltenham Borough had 2,190 households waiting for affordable housing on the Council's housing register. The affordable dwellings proposed here would go some way to addressing this need.

6.11.10 The affordable housing provision would be secured through a s.106 agreement.

#### S.106 agreement.

6.11.11 A request for an education contribution has been received from the County Council for contributions towards education as follows:

- **Primary** – Holy Apostles C of E primary school and/or primary places in the Charlton Kings Primary Planning Area - **£241,305.09**
- **Secondary** – Cheltenham Secondary Planning Area – **£250,743.48**
- **Libraries** - **£38,428.00**

6.11.12 This has been agreed by the applicant and would be secured through a legal obligation, either by the County Council entering an agreement with the applicant or the applicant meeting the requirement through a unilateral undertaking.

6.11.13 In addition to the above a s.106 agreement with the Borough Council will secure the provision of a Landscape and Ecological Management Plan. It will also provide for the establishment of a management company and a management regime for the retained grassland, including limiting access, in line with the request from Gloucestershire Wildlife Trust. This s.106 agreement will also provide for the provision of the affordable housing as detailed above.

### 6.12 Other Matters

#### Environmental Impact Assessment (EIA)

6.12.1 The Local Planning Authority was originally requested, in August 2017, to adopt a screening opinion to determine whether the proposed development on this site would constitute 'EIA' development, under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017; i.e. determine whether the project is of a type listed in Schedule 1 or Schedule 2 of the Regulations.

6.12.2 The proposed development is not Schedule 1 development. Additionally, whilst the development is listed in column 1 of Schedule 2 of the 2017 Regulations (Part 10 Infrastructure Projects, (b) Urban development projects), the proposed development does not exceed the following thresholds set out in column 2 of the Schedule:

(i) the development does not include more than 1 hectare of urban development which is not residential development;

(ii) the development does not include more than 150 dwellings;

(iii) the overall area of the development does not exceed 5 hectares.

6.12.3 Additionally, the site is not located within a "sensitive area" as defined by Regulation 2(1). Therefore, the proposed development is not Schedule 2 development and an EIA is not required.

### 7 Planning Balance

7.1 In planning applications such as this the Planning Authority must exercise its judgement and consider potentially conflicting issues to decide whether planning permission should be granted. This 'balancing exercise' is at the heart of the planning process.

7.2 The principle of the proposal is acceptable as the site is allocated for housing within the Cheltenham Plan. The consideration of the proposal above has identified harms and benefits of allowing the proposal which must be weighed up in the 'planning balance'. As explained at para. 6.2.10 above this balance must be 'tilted', due to the lack of a 5 year housing land supply.

7.3 The benefits of the scheme are considered to be:

- Provision of market housing

- Provision of affordable housing
- Net gain in biodiversity including management of retained grassland.
- Economic benefits including jobs during construction and benefits to local economy from future residents using local goods and services.
- Long term management of mature trees and hedgerows

Substantial weight should be given to the delivery of market and affordable housing. The remainder of the benefits identified should be given moderate weight in the balancing exercise.

7.4 The harms arising from the scheme are considered to be:

- The loss of 2 mature trees
- The impact on the setting of two designated heritage assets

Great weight should be given to the conservation of heritage assets. The proposal results in less than substantial harm to its significance, although as detailed above this harm is considered to be significantly reduced when compared to the appeal scheme. The loss of the mature trees is regrettable and this consideration carries moderate weight in the balancing exercise, however mitigation is proposed and no protected or category A trees are to be removed.

7.5 The other harms which were identified by the Inspector in the appeal decision are considered to have been overcome through amendments to the scheme or enhanced protection or mitigation.

7.6 In the appeal, the Inspector concluded that the harm to heritage assets outweighed the benefits of the scheme, identified by him as the provision of market and social housing. The harm to heritage assets has significantly reduced through the revised scheme and the shortfall in provision of affordable and market housing has worsened in the meantime to significantly below a 5 year supply (3.7 years at latest calculation). Therefore Officers conclude that in balancing the key issues, the benefits of the proposal outweigh the harms. Therefore, in accordance with para 11 (d) of the NPPF, planning permission should be approved.

## **8. Public Sector Equalities Duty (PSED)**

8.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED. In this instance the affordable homes specifically will be required to be accessible and adaptable, making it suitable for a range of potential occupants.

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

## 9 CONCLUSION AND RECOMMENDATION

9.1 This site has a history of refused applications. The most recent application was the subject of an appeal and the Inspectors decision is a material consideration.

9.2 Since the appeal was determined the Cheltenham Plan has been adopted which allocates the site for housing. Members will be aware that decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

9.3 The current scheme has sought to respond to the requirements of the newly adopted policy and to respond to the comments and observations made by the Inspector in his decision. This has led to a number of changes to the proposal as outlined above including the reduction in number of houses, reduction in developed area, retention of open space, introduction of additional landscaping in indicative plans, improvements to biodiversity protection and mitigation and greater retention and protection of trees.

9.4 As outlined above the Inspector's primary reason for dismissing the appeal was the impact on heritage assets. It is acknowledged that despite significant changes to the proposal, some harm has still been identified, although the heritage specialists differ as to how significant this harm is resulting in differing recommendations.

9.5 The Inspector identified other areas of concern although he stated that they would not, either alone, or collectively have outweighed the benefits of the scheme.

- **Loss of protected tree and risk to those retained** – The protected tree is now to be retained and protection measures improved
- **Potential net loss of biodiversity** – The current scheme has been found to result in no net loss of biodiversity
- **Nature of highway access** – The access is unchanged although the proposal would generate less traffic than previous applications.

9.6 Policy HD4 in the recently sets out a number of site specific requirements. The above analysis shows that these are all achieved through the current proposal. As such, according to the NPPF the proposal should be approved without delay. Further, as the Council is unable to demonstrate a five year supply of housing paragraph 11(d) of the NPPF remains relevant and permission is to be granted unless either paragraph 11(d)(i) or 11(d)(ii) applies. It is not considered that there are any clear reasons for refusing permission under paragraph 11(d)(i) or that there would be adverse impacts that would significantly and demonstrably outweigh the benefits. As such it is concluded that planning permission should be granted.

9.7 The recommendation is to permit the application subject to the signing of a s.106 agreement.

## 10 CONDITIONS / INFORMATIVES

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application(s) for approval of the reserved matters (appearance and landscaping) must be made not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The outline 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.

- 4 The application for approval of landscaping as a reserved matter shall include full details of the surface water drainage proposals; and the information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be implemented strictly in accordance with approved details, prior to the commencement of any building works above ground level.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, and to minimise the risk of pollution for the lifetime of the development, in accordance with adopted policy INF2 of the Joint Core Strategy (2017). The detailed surface water drainage proposals are required at reserved matters stage as they form an inherent part of the landscaping proposals.

- 5 No works shall commence on site on the development hereby permitted until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to and approved in writing by the Local Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed and are open to the public.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within

the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 6 Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement 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;
- 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; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: To minimise disruption on the public highway and adjacent land users and to accommodate the efficient delivery of goods and supplies during the course of the construction works in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework. Approval is required upfront because without proper mitigation the construction works could have an unacceptable highway impact.

- 7 No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i) Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii) Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii) Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

- 8 No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and

pedestrians, and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108, 110 and 127 of the National Planning Policy Framework.

- 9 No building or use hereby permitted shall be occupied or use commenced until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans PL005 Rev B and SK25 Revision: F has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 10 The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 2 no. bicycles per dwelling have been made available for use and those facilities shall be maintained for the duration of the development.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 11 Prior to occupation or use commenced, evidence that the pre-occupation elements of the approved Travel Plan have been put in place shall be prepared, submitted to and approved in writing by the Local Planning Authority.

The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: The development will generate a significant amount of movement; and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 111 of the National Planning Policy Framework.

- 12 The individual vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 13 The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric

vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To ensure that the development incorporates facilitates for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 15 Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:

Ecology:

- (i) Outline Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated April 2020.
- (ii) Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated April 2020.
- (iii) Adherence to the Tree Protection Plan incorporating arboricultural methods (iv) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) and other responsible persons plus lines of communication

Other Items:

- (iv) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- (v) Arrangements for liaison with the Council's Pollution Control Team.
- (vi) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.
- (vii) Procedures for emergency deviation of the agreed working hours.

- (viii) Waste and material storage.
- (ix) Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- (x) Measures for controlling the use of site lighting whether required for safe working or for security purposes.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

- 16 Notwithstanding previously submitted details, prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage shall be implemented in accordance with the approved details prior to first occupation of the development

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 in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 17 Prior to the commencement of development, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated April 2020, and shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 18 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted

to and approved in writing by the Local Planning Authority. 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 saved policies SL1 and D1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 19 Prior to the commencement of development, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GI2 and GI3 of the Cheltenham Plan (2020), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 20 Prior to the commencement of the development a Landscape and Ecological Management Scheme based on the Landscape Strategy drawing 19216.101 revision D dated 14-04-20, Proposed New Tree Planting Management Plan - Head of Terms and the Ecological Appraisal dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive) shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for educational but not public access;
- (e) A work and maintenance schedule for 5 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures;
- (g) Organisation or personnel responsible for implementation of the scheme;
- (h) Issue of a homeowner's information pack on local recreational opportunities and the sensitivity of the Cotswolds Beechwoods SAC.
- (i) Measures to achieve the retention and enhancement of the Ladies Bedstraw population within the site.

The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with JCS policies SD6 and SD9, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

- 21 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall submitted to and approved in writing

by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 22 Notwithstanding the submitted details, prior to the commencement of any building works above ground level, details of a scheme for the provision and future maintenance of multi-functional green infrastructure to include areas of informal play shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development.

Reason: To ensure that the development makes a positive contribution towards green infrastructure and provides opportunities for play and recreation in accordance with adopted policies INF3 and INF6 of the Joint Core Strategy (2017) and paragraphs 69 and 109 of the National Planning Policy Framework.

- 23 Notwithstanding previously submitted details, prior to the commencement of any building works above ground level, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number and location of all new trees and hedges to be planted; their species, size, spacing/density of hedges, root types, tree pit details (including details of introduced soil amelioration plans); and protection from deer and other predators as well as protection for the street trees from vehicles etc. The scheme shall also include: a. a short, medium and long term management for all trees to be planted; b. details of the restoration and remedial surgery to parts of the existing hedge to be retained; c. details of the proposed pond to the south of the site; and d. wild flower strips in the public open spaces. All hard landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority. All soft landscaping shall be carried out in the first planting and seeding season following completion of the development or first occupation of the development (whichever is sooner). Any trees which within a period of 5 years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size or species unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with saved policies D1, GI2 and GI3 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.

- 24 All works including paths, parking areas and other forms of hard landscaping that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig method as per the submitted drawings. Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 25 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework.

- 26 The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1036.03-A dated 17.04.20 which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.

Reason: To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Policies GI2 and GI3 of the Cheltenham Plan (2020), ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175.

- 27 No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 28 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:

Monday to Friday - 8am to 6pm  
Saturday - 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 29 No external facing or roofing materials shall be applied unless in accordance with: a) a detailed written specification of the materials; and b) physical samples of the materials. The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020),

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adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 30 No boundary treatments, including boundary walls, fences or other means of enclosure shall be constructed unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 31 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:

- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB and recreation 'offer' <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision') and Policy BG1 of the Cheltenham Plan 2020.

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

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017), policy BG1 of the Cheltenham Plan 2020 and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 32 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained for that purpose.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 33 Prior to first occupation of the development, leaf guards for the guttering and down pipes of the dwellings shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, and shall be maintained as such thereafter.

Reason: To reduce levels of tree-related inconvenience experienced by residents during the occupancy of the development.

### 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 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:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details
- iv. 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.

- 3 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:

- I. Drafting the Agreement
- II. Set up costs
- III. Approving the highway details
- IV. Inspecting the highway works

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You should enter into discussions with statutory undertakers as soon as possible to coordinate 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

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Highway Agreement under Section 38 of the Highways Act 1980 must be completed and the bond secured.

- 4 The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
- 5 The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.

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## Appeal Decision

Inquiry Opened on 20 August 2019

Site visit made on 19 August 2019

by B J Sims BSc(Hons) CEng MICE MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2019

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Appeal Ref: APP/B1605/W/19/3227293

Land at Oakhurst Rise, Charlton Kings, Cheltenham, GL52 6NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by William Morrison (Cheltenham) Limited and The Trustees of the Carmelite Charitable Trust against the decision of Cheltenham Borough Council.
  - The application Ref 18/02171/OUT, dated 24 October 2018, was refused by notice dated 22 March 2019.
  - The proposed development **is described in the original application as 'outline application for residential development of up to 69 dwellings (revision to application reference 17/00710/OUT')**
  - The Inquiry sat for 4 days on 20 to 23 August 2019.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

#### *Rule 6 Party*

2. Charlton Kings Friends (CKF) were represented at the Inquiry under Rule 6 of the Inquiries Procedure Rules.

#### *Outline Application*

3. The application and appeal are in outline but with matters of Access, Layout and Scale for consideration in detail at this stage.

#### *Council Consideration, Amended Scheme and Basis of Decision*

4. Cheltenham Borough Council (CBC) officers recommended approval of the original submitted scheme for up to 69 dwellings but the Planning Committee refused the application for five reasons related, briefly, to planning policy, trees, heritage, ecology and visual impact. However, this appeal is decided on a fresh and independent appraisal of the cases for and against the proposed development.
5. Following the refusal of the original application, the Applicants, William Morrison (Cheltenham) Limited and The Trustees of the Carmelite Charitable Trust (now the Appellants) amended the proposed scheme and put forward a revised layout for up to 68 dwellings. This was in response to post-Hearing

advice by the Inspector currently examining the draft Cheltenham Plan, proposing a Main Modification (MM) to the allocation of the appeal site for residential development, to reduce the area for built development. To date, the MMs to the emerging Plan are not agreed for public consultation. However, a MM suggested by CBC to the allocation of the site is made public strictly for the purpose of this appeal. I return to this matter of emerging policy in connection with the description of the amended proposal and the issue of the principle of the development, below.

6. CBC did not publish the amended development proposed for consultation. However, the Appellants themselves undertook public consultation on the modified scheme. CBC accepts that this consultation was equivalent to a statutory consultation on the revised application. It was agreed by all parties at the Inquiry that, in the circumstances, the amended scheme should form the basis for the determination of this appeal.
7. I am satisfied that the revision of the proposals is within the parameters of the well-known *Wheatcroft* judgment and that no injustice would result to any party from this approach. Accordingly, I consider the appeal and base my decision on the amended proposal, as described below.
8. Whilst the original application was expressly made in terms of the original scheme for up to 69 dwellings and the modified proposal for up to 68 dwellings, the application was submitted as a modification to a previously refused scheme for 90 dwellings. For the avoidance of doubt, the modified proposal for up to 68 dwellings now forms the basis of this decision on a fresh assessment of its individual merits, in the light of current planning policy and circumstances.
9. Although the matter of layout is for detailed consideration, the description, in terms of 'up to' 68 dwellings, provides an acceptable degree of latitude for adjustment of the internal configuration of the several blocks of dwellings in any future application for approval of the reserved matter of design.

#### *Reasons for Refusal and Other Representations*

10. Subsequent to its original determination of the application, CBC subsequently withdrew its fourth and fifth reasons for refusal on ecology and visual impact. CKF, as Rule 6 Party, continue to object on grounds of ecology as well as heritage. All oral and written representations by CKF and other interested third parties are taken into account in this decision.

#### *Planning Obligation*

11. The appellants have provided a planning obligation under Section 106 of the Act (as amended) to construct 40% of the dwellings as affordable housing units, in response to adopted policy provisions. The planning obligation has been executed as a deed in compliance with the relevant legal requirements. Its provisions are considered further below in connection with the planning benefits of the proposed development.

#### *Site Visit*

12. By agreement with the main and Rule 6 parties, I conducted an accompanied visit to the appeal site with their respective representatives on the day before the Inquiry opened. This was necessary to inform myself properly of the

features of the site and neighbouring Listed Buildings before hearing the evidence. I viewed Ashley Manor from the carriage drive and entered both Ashley Manor and Charlton Manor to observe views from windows facing the appeal site, variously at ground and upper floor levels. I also toured the wider area to observe more distant viewpoints and I drove via the local road network leading to the access point at Oakhurst Rise. It was left open at the start of the Inquiry whether a further accompanied site visit would take place but, by the close, no further site visit was requested or deemed necessary.

#### Description of the Site and Surrounding Area

13. The principal part of the appeal site is an undeveloped area of land, which extends to 4.29ha. It is located in the eastern part of the Principal Urban Area of Cheltenham, some 2km south east of the town centre, in an elevated position above the town, within Charlton Kings.
14. The site is mainly grassland, divided into two areas by an outgrown hedgerow running approximately north to south and now incorporating a number of large, mature trees. There are other mature trees around and on the site. The area to the west of the hedgerow amounts to about one third of the total site. The site is largely bounded on three sides by the rear gardens of residential properties fronting Birchley Road and Ashley Road to the north and east and Oakhurst Rise to the west. Adjacent to the south are the functional grounds of **St Edward's Preparatory School**.
15. Currently, the appeal site forms part of the wider St Edward's School grounds, being leased to the School by its owners, the co-Appellant, Carmelite Charitable Trust.
16. The larger, eastern part of the appeal site slopes generally southward and the smaller western area has a relatively steeper gradient to the west.
17. **The buildings of St Edward's School** lie directly to the south east of the appeal site and include the Grade II\* listed Ashley Manor, now the School administration block, facing approximately west and approached via a winding carriage drive from the main London Road. The most northerly School building is a modern nursery block which stands closer than the Manor to the south east corner of the appeal site.
18. Adjacent to the eastern appeal site boundary, occupying one of three large residential curtilages, is the Grade II listed Charlton Manor.
19. A former Ice House, now infilled and identifiable as a mound with trees above, occupies a central position within the eastern part of the site.
20. Some 46% of the trees on the site are subject to Tree Preservation Order (TPO) No1 1981, covering 18 individual and 8 groups of trees.
21. In the central northern part of the site is a large badger sett (BS1) with outlying setts in other parts of the site, including within the hedgerow to the west and at the Ice House to the east.
22. The appeal site also includes two narrow strips of land to the south west within the School grounds to facilitate the connection of drainage runs to the sewerage system.

## Description of the Amended Proposal

23. The amended outline proposal now at appeal is for 68 dwellings with access, layout and scale defined in detail.
24. The sole access would be from the end of the present cul-de sac of Oakhurst Rise, in the north western corner of the site.
25. The dwellings would be arranged in groups, pairs and terraces fronting a network of access roads and would range in size from one- to six-bedroom flats and houses in buildings from one to three storeys. The 40% (28 No) affordable units would be distributed throughout the development.
26. The Ice House mound would be left between the west of plots 31-34 and the estate road, as an historic feature with public interpretative information available.
27. The development would include the removal under licence of the main badger sett, which is situated roughly north of proposed plots 48-50 and south of plots 40-42. The proposal includes the creation of an artificial, relocated badger sett near the south west corner of the site.
28. The development, in particular plots 48-50, would require the felling of a protected tree, Ref 3014, from the central part of the site. The trunk of this tree would be removed to the south west of the site and retained as a feature and 'monoxyle' wildlife habitat. All other protected trees would be retained.
29. Toward the south eastern site boundary there would be a water feature, annotated as a 'rill', and a surface water drainage attenuation pond.
30. Compared with the original 69-dwelling scheme, the built development would be arranged to leave a landscaped space south of plots 16-17 in the southernmost part of the site, to the north west of the front of Ashley Manor. There would be a further landscaped space between the easternmost plots 31-34 and the western boundary with Charlton Manor. These aspects of the amended layout were introduced after the submission of the application in response to the post-Hearing advice of the Inspector conducting the draft Cheltenham Plan examination.

## Main Issues

31. On consideration of all the written and oral evidence from the Main and Rule 6 parties and other interested persons, including the several statements of common ground, I consider that the main issues in the appeal are:
  - i. the acceptability of the proposed development in principle, having regard to adopted and emerging planning policy,
  - ii. the potential effect of the development on protected trees,
  - iii. the effect the development would have on the settings of neighbouring heritage assets, in particular the listed Charlton Manor and Ashley Manor and the associated Ice House,
  - iv. the effect of the development on biodiversity, with particular respect to protected badgers and reptiles on the site,

- v. the provision of access and the effects of road traffic that would be generated by the development, and
  - vi. any benefits of the proposed development and, in particular, its contribution to the market and affordable housing land supply in Cheltenham, in the context of a housing land supply agreed to be less than five years.
32. I also consider matters of flood risk and drainage, visual impact in the vicinity of the Cotswolds AONB, adequacy of community infrastructure and residential amenity (noise and disturbance, education, sports, health care).

## Reasons

### *Principle of Development*

#### *Adopted Policy*

- 33. The current statutory development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP) and the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS).
- 34. The appeal site lies within the defined Principal Urban Area of Cheltenham but is not allocated for any form of development. However, neither is the site subject to any policy restriction on development.
- 35. There is accordingly no objection to the principle of residential development on the appeal site with respect to adopted policy.

#### *Emerging Policy*

- 36. In terms of emerging policy, the whole of the present appeal site is allocated, by Policy HD4 of the draft Cheltenham Plan, for approximately 25 dwellings, to a layout that respects the existing urban characteristics of the vicinity and the character, significance and setting of heritage assets that may be affected by the development, subject also to protection of key biodiversity assets.
- 37. At the Hearings within the ongoing Examination of the Cheltenham Plan, draft allocation HD4 has been considered in the light of conflicting expert heritage evidence. On consideration of this evidence, the Examination Inspector has issued post-Hearing advice to the Council that:

***‘there is good reason to amend the boundaries of the development area from that proposed in the draft Plan and to require new tree planting around the east and south boundaries to safeguard the settings of both listed buildings. New housing should be located away from the setting of the west elevation of Ashley Manor. This could be achieved through the amendment to the southern boundary of the allocation site so that it continues in a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development, the eastern boundary of the site should be repositioned at least 30 metres west of the rear boundary with Charlton Manor. The Ice House would remain within the confines of the site, but its future could be secured. A MM is required to Policy HD4 to identify the boundaries of the site as suggested above; to identify the level of new housing which could***

*realistically be accommodated within the new site boundary; to identify the need for new tree planting around the east and south boundaries of the site; and to require the improvements to the Ice House ..... .'.*

38. It was in response to this advice that the amended 68-dwelling scheme now under consideration was put forward. The Council has meanwhile suggested a MM to Policy HD4 stipulating a 'minimum of 25 dwellings' with a series of additional criteria to constrain any built development in the same terms as the post-Hearing advice and, in addition, to require the long-term protection of mature trees and hedges.
39. However, at the time of the Inquiry, the Examination Inspector had not yet agreed the MMs for public consultation and ultimately all proposed MMs to the draft Cheltenham Plan must be subject to full public consultation before the Inspector reaches any final conclusion on the soundness of allocation Policy HD4 or the draft Plan as a whole.

#### *Conclusions on the Principle of the Development*

40. It is evident that, before formulating the post-Hearing advice, the Examination Inspector visited the appeal site but did not find it necessary to enter the adjacent listed buildings. In terms of normal practice, that approach was proportionate to the appraisal of the draft allocation of the site in the local plan, as distinct from a specific application or the current appeal for planning permission now for determination.
41. In the circumstances, whilst the emerging allocation Policy HD4 and the associated post-Hearing advice and suggested MM are material to the present appeal, they can be accorded only little weight, compared with the policies of the current adopted development plan, in this fresh assessment of the amended scheme and the detailed evidence for and against its approval.
42. It follows that, whilst there is no objection in principle to residential development on the appeal site, the proposal now subject to appeal falls to be assessed and determined primarily with respect to the adopted development plan, subject to its consistency with the National Planning Policy Framework (the Framework).

#### *Protected Trees*

##### *Policy and Guidance*

43. The development plan policy of greatest relevance to the loss of protected trees is GE6 of the CBLP. This resists the loss to development of sound and healthy protected trees of high value with at least ten years of life remaining and which make a significant contribution to the character and appearance of the locality of the site or locality. Policy GE6 expressly provides for retention of trees and planting of new trees in conjunction with development, as well as adequate measures to protect trees during construction. Policy GE6 is cross-referenced to BS5837: 2005 for guidance on trees in relation to construction.
44. Policy GE5 of the CBLP is also cited in the refusal of the application as well as in several previous appeal decisions<sup>1</sup> as a development management policy resisting the unnecessary felling of healthy and safe protected trees on

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<sup>1</sup> Core Documents E11-13

private land, where they are causing no harm. Policy GE5 applies even to dead trees that are contributing to biodiversity. Notwithstanding the expressed view of the Appellants in connection with this appeal that Policy GE5 is inapplicable as unrelated to new development, it appears to be consistently and appropriately applied in this case, as in previous appeals, as a provision also relevant to development proposals.

45. Policy INF3 of the JCS essentially supports the aims of Policies GE5-6 in terms of avoidance of impact on protected trees and the incorporation into development of measures to mitigate any loss of trees on the site or in its immediate environs.
46. These policies are not entirely consistent with the thrust of the Framework, which makes allowance at paragraph 175 for wholly exceptional circumstances, including public benefit, to justify significant harm even to veteran trees. Any departure from these adopted policies will be subject to consideration in the light of other material circumstances in any event, under section 38(6) of the Act, as amended.
47. Other guidance on trees in relation to construction is contained within the now applicable BS5837:2012 as well as in Natural England and Forestry Commission Standing Advice on protecting veteran and ancient trees.

*Loss of Protected Tree Ref 3014*

48. Tree 3014 (T11 in the TPO) is a mature oak. It falls within Category B, of moderate quality, in terms of BS5837, due to impaired condition but still with estimated remaining life expectancy of at least 20 Years. That is not to say that it cannot be regarded as a tree of high value in terms of Policy GE6.
49. The tree is not regarded as more than a successional veteran even by CBC, despite displaying some veteran characteristics, due to current absence of longevity. However, it is assessed as having a potential retained life expectancy of at least 40 years by the Appellants and up to 100 years by CBC.
50. The location of Tree 3014, within a private site of over 4ha, constrains its visual amenity value to external receptors, albeit the site is periodically open for public events associated with the adjacent School.
51. Notwithstanding its current non-veteran status and impaired condition however, the tree plainly contributes to the rural character of the site and provides amenity value in terms of the greening of the appeal site. This would be of potential benefit to future residents if the site were ultimately developed in line with draft allocation Policy HD4 of the Cheltenham Plan, which would not necessarily require its removal.
52. On a balanced assessment of the evidence of the main parties to the appeal, Tree 3014 is of high value and its loss would be harmful and contrary to Policy GE6 of the CBLP, as well as to the aims of Policy GE5 of the CBLP and INF3 of the JCS.
53. That harm would be mitigated to some extent due to the 'moderate' categorisation of the tree in terms of BS5837 and by the retention of its trunk as a 'monoxyle' habitat, with relevance also to biodiversity, considered below.

54. It remains, in any event, to take account of the adverse effect of the loss of Tree 3014 in the overall balance of planning considerations in the appeal.

*Retained Protected and Veteran Trees*

55. It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have not been identified as such in the assessment submitted by the arboricultural consultants to the Appellants, including Tree 3014.
56. That assessment is based upon the in-house identification system of the consultants, known as RAVEN<sup>2</sup>. Criticism is based upon the Ancient Tree Inventory of the Ancient Tree Forum and Natural England standing advice for ancient woodland. It turns, in part, on alleged over-reliance by RAVEN, upon the mere size of the tree in assessing its veteran or ancient status.
57. However, it is apparent that the assessment covered all the trees on the site in light of the applicable definition of veteran and ancient trees in the Glossary of the Framework, in terms of age and condition, as well as size, in relation to biodiversity, cultural or heritage value. Furthermore, many trees referenced by the Woodland Trust are retained in the proposal now at appeal.
58. The scheme as a whole, and its measures to protect existing trees in particular, must be considered primarily in relation to the policies of the development plan and the Framework and a realistic assessment of its impacts. I therefore consider it appropriate to proceed on the basis of the agreement between the main parties that the veteran and other trees for retention on the site have been properly identified. The question to be addressed is whether the trees proposed to be retained in the development would be protected effectively.
59. At the Inquiry, it was equally established that there was no substantive dispute among all parties to the appeal that the root protection areas (RPAs) and veteran tree buffers (VTBs) of the trees proposed to be retained in the development have also been correctly defined in terms of BS5837 and Natural England standing advice.
60. It is clear from the detailed amended layout that, in a number of cases, built development would stand relatively close to veteran trees. In some cases, proposed private gardens would extend into the VTB or RPA of a veteran tree and certain elements of construction would take place even potentially among the roots of a veteran tree.
61. For example, a significant part of the RPA of Tree 3007, an oak, would be within the garden of plot 35 at the north east corner of the site. In a further example, a raised walkway and parking bays would occupy about 5% of the VTB of Tree 3018, also an oak, situated towards the north west part of the site. In the case of Tree 3021, an ash, there would be drains constructed within the RPA as well as potential increased public access after development.
62. CBC maintains that these incursions are contrary to the relevant protective planning policies because of their departure from the strict terms of BS5837 and Natural England Standing Advice. However, these advice documents expressly make provision for professional judgement in their application.

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<sup>2</sup> Recognition of Ancient, Veteran and Notable Trees

63. In relation to the foregoing examples, the detailed specialist evidence of the Appellants includes assurance that the crown of Tree 3007 covers less than 25% of the RPA, that the raised walkway partly within the VTB of Tree 3018 **would be constructed by 'no-dig' methods** and its design would have a minimal ground footprint. Drainage works within the RPA of Tree 3021 would be undertaken **by 'trenchless' working and 'below-root boring' techniques** and a footpath placed relatively distant from the tree itself. Furthermore, permitted development rights applicable to dwellings and their curtilages would not override the safeguarding provided by the TPO.
64. There is no dispute that the foregoing working arrangements are based upon tried and tested methodologies. The question is whether it can be judged, in this particular case, that they would be effective.
65. On balance overall, I am satisfied that the measures proposed to safeguard the long-term welfare of all the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. However, that cannot be certain. I am persuaded that there would remain some degree of risk to the longevity of the trees concerned, given the relative degree of density of those parts of the proposed development closest to those concerned, leading to greater public access and activity in close proximity.
66. To that extent, with respect to the retained protected and veteran trees, I find the proposed development to be in some conflict with Policies GE6, GE5 and INF3. This potential harm counts in some measure against the approval of the scheme. The degree to which this conflict will affect the overall planning balance will depend on whether a development of the layout and density proposed is acceptable in terms other planning effects.

### *Heritage Assets*

#### *Policy and Law*

67. Policy CP3 of the CBLP and SD8 and SD10 of the JCS together provide that development should protect, conserve, sustain and enhance designated heritage assets and their settings and avoid harm to views into and out of areas of acknowledged importance, including with respect to listed buildings.
68. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) contains a statutory duty to have special regard to the desirability of preserving the setting of listed buildings.
69. Framework paragraph 193 gives great weight to the conservation of designated heritage assets and paragraphs 195-6 consider harm to heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. National Planning Practice Guidance (PPG) refers to the extent and importance of the setting to the visual relationship between the asset and proposed development, including that views of or from an asset will play an important part. The PPG also notes that

the contribution a setting makes to the significance of an asset is not dependent upon public access.

70. It is now trite law<sup>3</sup> that this less than substantial harm must be accorded considerable weight in the overall planning balance. However, the judgment in the case of *Shimbles*<sup>4</sup>, with reference also to the earlier *Palmer*<sup>5</sup> case, makes clear that, whilst there is no allowance for any sub-categories of harm within the Framework definition, planning judgement must be exercised. That is with regard to the level of the less than substantial harm, the great weight accorded to the conservation of the asset and the extent of the public benefits.

*Contribution of the Site and the Ice House to the Settings of Listed Buildings*

71. The appeal site was historically and remains in the same ownership as Ashley Manor. Although the land evidently was never part of the managed parkland of the Manor, it had a functional relationship with the Manor as farmland, and as the location of its Ice House, which survives as an historic feature.
72. It is disputed whether there was ever a substantial tree belt along the southern appeal site boundary, visually separating the rural appeal site from the formal grounds of the Manor in views from its front, the approaches over the carriage drive from the south or from further afield. That remains a moot point; but whether or not there has, from time to time, existed such a visual barrier, the historical association is beyond dispute.
73. The present circumstances are that the Manor and the site are intervisible through the current boundary vegetation and direct views are available from at least one north-facing window onto the currently mainly open, eastern part of the site, including the tree-covered mound of the Ice House. I observed this for myself, unlike the Inspector dealing merely with the draft allocation Policy HD4. Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views.
74. At the more recently constructed Charlton Manor, against the eastern boundary of site, there has been historic variation in the degree to which this boundary has been vegetated and screened. The main entrance to the house is on its south-facing side and its road entrance is to the east. However, its western elevation, directly facing the appeal site contains its ground floor kitchen as well as significant habitable rooms on the first and second floor.
75. The windows of the upper rooms especially afford open views across the appeal site, past the Ice House mound and as far as the mountains of South Wales on the far side of the Severn Estuary. Again, unlike the Inspector examining the draft Cheltenham Plan, I was able to experience these views personally.
76. I recognise an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes

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<sup>3</sup> *Barnwell C1/2013/0843; Forge Field [2014] EWHC 1895 (Admin); Forest of Dean [2016] EWHC 421 (Admin); Jones and Mordue [2015] EWCA Civ 1243*

<sup>4</sup> *Shimbles v City of Bradford et al [2018] EWHC 195*

<sup>5</sup> *Palmer v Herefordshire Council and Anr [2016]*

importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets.

77. In the proposed scheme, the Ice House itself would not be directly affected by built development and would potentially be promoted with information on its history and significance as an aid to its public appreciation.

*Effect on the Setting of Ashley Manor*

78. By avoiding built development in the southernmost part of the site, the amended layout mitigates to some extent the effect of the proposed development on the setting of the west-facing, former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.
79. Moreover, that part of the development comprising plots 27-30, in the south eastern corner of the site, would intervene prominently in views to the north from the Manor House, including from its interior, impeding appreciation of the historic Ice House and the rural backdrop the site currently provides.
80. I recognise that the main front of the Ashley Manor House does not face directly towards the appeal site and that the character of its immediate surroundings has been altered by the addition of modern school buildings, including that closest to the appeal site boundary and north of the Manor itself.
81. Nevertheless, I consider that these effects on the visual relationship between the Grade II\* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building.
82. Having regard to the statutory duty under s66 of the PLBCA, this would be contrary to the protective aims of Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

*Effect on the Setting of Charlton Manor*

83. The amended scheme avoids built development within 30m of the curtilage of Charlton Manor and provides for intervening landscaping to soften the appearance of the new houses in views from the Manor, as advised by the examining Inspector regarding draft allocation HD4.
84. Be that as it may, the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.
85. As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this Listed Building. Having regard to the statutory duty under s66 of the PLBCA, the effect of the development on the setting of Charlton Manor also would be

contrary to Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

#### *Overall Conclusions regarding Heritage Assets*

86. The high significance of Ashley Manor is primarily indicated by its Grade II\* listing and the recognition in its statutory list entry as one of the finest villas in Cheltenham. Charlton Manor, although more recent and listed Grade II, is also of high significance, being the first house erected on the Battledown Estate, taking advantage of its elevated position and belonging to the Victorian Gothic Revival, of which it remains a complete and well preserved example.
87. Thus, the harm to the settings of both these designated heritage assets, whilst less than substantial in terms of Framework paragraph 176, is nonetheless also significant. It requires consideration against the significance of the assets themselves as well as that of the level of any public benefit resulting from the development, in the final planning balance, addressed below.
88. I give no significant weight to the prospect of public access to and information upon the Ice House, as a mere an incidental to the development.

#### *Biodiversity*

##### *Policy*

89. Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

##### *Badgers*

90. The amended development layout proposed would require the removal of the major, central badger sett, Ref BS1, and its replacement with an artificial sett of detailed design for future approval. On the evidence, I am satisfied that this is tried and tested methodology in common use and that the artificial sett could be provided with sufficient chambers to accommodate displaced badgers choosing to use it and constructed to floor and entrance levels high enough to avoid any local flooding.
91. The badger population currently resident and breeding in BS1 would be removed under licence. Badgers are common, subject even to official culling and legislative protection mainly for their welfare and against illegal and cruel persecution. That is not to say that any harm to them would not give rise to a planning objection, just as in the case of any other protected species.
92. Moreover, from the standpoint of CKF, as objectors to the housing scheme as a whole, it is understandable that they submit that the layout ignores the

'avoid-mitigate-compensate' sequence of Framework paragraph 175, in placing built development and access roads so close to BS1 in the first place. However, if the layout is necessary to the development of the site for other reasons, the question becomes whether the mitigation and compensation measures would be effective.

93. In practice, the evidence is that badgers displaced under licence are as likely to remove to outlying setts or create new ones as they are to inhabit the artificial one provided; also, if they inhabit the artificial sett, that they would potentially extend it and add more chambers themselves.
94. Even though this level of compensation is not strictly necessary and direct harm to the protected badgers could be avoided, the remaining badger population would potentially be subject to more human pressure and interference and their present foraging area would be substantially reduced by the presence of the proposed housing. This implies a reduction in the biodiversity value of the site in respect of its currently resident badger population.

#### *Reptiles*

95. In response to local concern, the Appellants undertook a reptile survey shortly before the Inquiry. This, visual observation and local information provides little evidence of the presence of protected reptiles, other than a family of slowworms and a single grass snake.
96. The survey is criticised by CKF in terms of its seasonal timing, the hours and number of survey visits made and the size of the 'refugia' used to attract and count any reptiles present. The Appellants pointed out that a greater number of smaller 'refugia' were used to increase the likely count and that the number of visits accorded with accepted practice. At the same time, the Appellants agreed, at the Inquiry, that the timing of the survey had been sub-optimal in comparison with established guidance. However, there is no countervailing evidence to indicate a greater presence of reptiles on the site.
97. It is further evident that only 14 key wildlife species have been recorded on the site, compared with the 20 required for its consideration of a Key Wildlife Site.
98. On balance, I do not consider it likely that protected reptiles are present on the appeal site to justify objection to the amended outline scheme on grounds of harm to such species. I consider that it would be sufficient to require, by planning condition, a full ecological survey and assessment to be submitted, with measures for the protection and management of any protected species found, and its submission to the Council for approval before any development could commence.

#### *Overall Effect on Biodiversity*

99. It is possible that some incidental, improvement to biodiversity could result from the positive management of the site, including the retention of the main part of felled Tree 3014 as ecological habitat.
100. On the other hand, CKF determine that there would be a measurable reduction in biodiversity due to the occupation of much of the site by housing development. However, this is calculated using a metric approach, criticised

by the Appellants and not established as accepted methodology, whereas other professional metric assessment would show enhancement.

101. It is my impression that little weight can currently be given to the results of such conflicting metric assessments, at least in as much as they represent evidence to the present appeal.
102. Overall, I consider that the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy. This factor militates to a degree against the appeal proposal.

#### *Access and Traffic*

103. The route to the sole access point to the appeal site is over a network of residential access roads via an established housing area, with much on-street parking in place for much of the time. The cul de sac of Oakhurst Rise, which would be extended to form the on-site access roads to the proposed development, has a steep gradient.
104. I acknowledge that there are no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows.
105. However, such technical issues are not the only consideration in the assessment of the suitability of the access arrangements for new development. In this case, there are genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period, would add to congestion and inconvenience to existing frontage residents.
106. I am satisfied that such an increase in traffic flow would not have a significant impact on the wider highway network.
107. However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and might be at least assisted by the provision of an additional turning head proposed within the site. However, it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.
108. Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.

#### *Benefits*

##### *Affordable Housing and the Planning Obligation*

109. The Appellants put forward a considerable body of written evidence that there is a particularly acute need for more affordable housing in Cheltenham. It is undisputed that there is identified need for 231 affordable homes per annum, in a range of size and tenure, equivalent to 1,155 from 2014-18, compared with a delivery 182 in that period and only 507, in the past 18 years, 76 of these in Charlton Kings.

110. A contribution of 40%, or some 28 units, of the proposed housing would be secured by the completed planning obligation. At the Inquiry CBC accepted, and I agree, that this benefit carries very considerable weight in the balance of planning considerations.

#### *Market Housing*

111. It is common ground that, for the purposes of this appeal, the Cheltenham Borough housing land supply amounts to 4.6 years, calculated with reference to the requirement of the currently adopted development plan in relation to available sites. That is as compared with the minimum five year supply sought by Framework paragraph 73. Accordingly, the proposed development would make a significant, beneficial, 68-unit contribution to the overall housing supply.

#### *Other Benefits*

112. There would be a number of other potential benefits, as discussed above, in relation to heritage and biodiversity, but these would not offset negative impacts of the development for the reasons explained in connection with those main issues.

#### *Other Matters*

##### *Flood Risk and Drainage*

113. I recognise public concern regarding local flooding and drainage issues. However, there is insufficient evidence to show that a detailed scheme could not be satisfactorily drained. Surface water discharge could be limited to existing run-off rates by the attenuation pond indicated on the layout plan, once designed in detail to provide suitable capacity. Foul water would be connected, within the grounds of Ashley Manor, to the main sewerage system, also as indicated on the submitted layout plan. Wider local concerns expressed at the Inquiry regarding the matter of flood risk are outside the scope of this appeal.

##### *Visual Impact*

114. The elevated site is widely visible in distant views within the attractive, undulating landscape and its development would have significant visual impact on its immediate surroundings, close to the listed buildings and residential properties, considered above. However, any built development on the site would be relatively well vegetated and enclosed from the wider area. I do not therefore consider that it would cause harm to the appearance and character of the nearby Cotswolds AONB.

##### *Community Infrastructure*

115. There is no substantive evidence to justify objection to the introduction by the proposed development of up to 68 households to justify a planning objection on grounds of a lack of community infrastructure with respect to education, sports or health care facilities.

##### *Residential Amenity*

116. Details of the design and landscaping of the development are for later determination as reserved matters. At that stage I consider that it would be

possible to ensure, by appropriate design, that there would be no unacceptable harm to the amenity of the new residents or those already living at the surrounding properties, such as by way of noise, disturbance, overlooking or overshadowing. That is in the context of an already largely residential area within the Principal Urban Area of Cheltenham.

### *Balance of Planning Considerations*

#### *Policy*

117. At the heart of the Framework is the presumption in favour of sustainable development, which paragraph 11 requires to be applied in planning decisions. Paragraph 11d(i) requires permission to be granted where the development plan policies which are most important for the determination of the appeal are out of date, unless the application of Framework policies that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusal.
118. Footnote 7 to the Framework makes clear that for housing proposals, as in this case, the lack of a five year housing land supply renders development plan housing provisions out of date and causes the balance set down by paragraph 11d(i), now commonly termed the tilted balance, to be engaged.
119. However, Framework paragraph 11d(ii) provides, in the alternative, for granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the Framework as a whole.

#### *Overall Assessment*

120. It is established above that the less than substantial harm to designated heritage assets that would be caused by the proposed development carries considerable weight. In my judgement, for the reasons explained above, this harm is of a very significant level and both Listed Buildings whose settings would be harmed are themselves of very high significance. I therefore consider that the less than substantial harm identified amounts to the requisite clear reason to dismiss this appeal, in terms of Framework paragraph 11d(i).
121. However, very considerable weight is also to be accorded to the contribution the development would make to the supply of affordable housing in the face of an acute shortage. The contribution to market housing also carries significant weight, in the absence of a current overall five year housing land supply for Cheltenham. These are the net total of benefits identified in favour of the amended proposal now at appeal.
122. In my overall judgement, the adverse impact by way of the less than substantial harm to the significance of designated heritage assets in this case would alone outweigh these benefits to housing. I therefore consider that dismissal of the appeal is warranted on that ground, with respect to Framework paragraph 11d(ii).
123. Moreover, it is also appropriate to take into account the harms I have identified by way of the loss of a protected tree and the degree of long-term risk to those trees to be retained, the potential net loss of biodiversity and the disadvantage due to the less than ideal nature of the highway access to the

appeal site. I do not consider that these further adverse effects would, either individually or jointly, outweigh the significant benefits to the supply of affordable and market housing. Nevertheless, they do further support the case for dismissal of this appeal.

124. Finally, the weight to be ascribed to the benefit to housing supply is fairly to be regarded as being constrained by the prospect that, even if the present proposal is rejected, there is still potential for the site to be developed in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future, the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing land supply for Cheltenham to above five years. These prospects too, although conjectural and not determinative, still militate against the approval of the current proposal.

*Overall Conclusion*

125. For the reasons explained, I conclude overall that this appeal should be dismissed.

*B J Sims*

Inspector

APPEARANCES

FOR CHELTENHAM BOROUGH COUNCIL

Mr G A Grant of Counsel

He called:

Ms L Mulraine Tech Cert (Arbor A) TMAA  
Senior Arboriculturalist – Environmental Dimension Partnership Limited

Mr C Morris BA(Hons) BTP MSc(HistCon) PostCertUD  
Senior Heritage and Conservation Officer, Cheltenham Borough Council

Mr R Williams BTP MRTPI MRICS  
Managing Director – Asbri Planning Limited

FOR WILLIAM MORRISON (CHELTENHAM) LIMITED AND THE TRUSTEES OF THE  
CARMELITE CHARITABLE TRUST CHELTENHAM BOROUGH COUNCIL - APPELLANTS

Mr S Choongh of Counsel

He called:

Mr A Colebrook MICF MAA MRFS  
Associate Director – Forbes-Laird Arboricultural Consultancy Limited

Ms L Markham BA PGDip PGCert MRTPI IHBC  
Associate – Montague Evans Chartered Surveyors

Mr A Baxter BA(Hons) MA (Oxon) MSc CEcol CEnv MCIEEM  
Director – Aspect Ecology

Mr P J Frampton BSc(Hons) TP MRICS MRTPI  
Director - Frampton Town Planning Ltd

Mr M Glaze LLB(Hons) Eng Tech MIHE  
Associate Director - Cotswold Transport Planning

Mr A de Croos BEng  
Associate - Simpson Associates Consulting Engineers LLP

FOR CHARLTON KINGS FRIENDS – RULE 6 PARTY

Mr L Glenister of Counsel

He called:

Mr P Bell BA MA PDD IHBCo  
of Asset Heritage Consulting

Mr S T Watson BSc(Hons) MICEEM  
Principal Ecologist – Bioscan (UK) Limited

## OTHER THIRD PARTIES AND INTERESTED PERSONS

Mrs S Walker

Mr P Walker and

Mr A Walker of Charlton Kings Friends also spoke on their own behalves

Cllr L Savage also on behalf of Mr A Chalk MP for Cheltenham and Cllr M Babbage

Cllr B Fisher

Cllr P McCloskey

Cllr S Harvey

Ms E Gilmartin and

Mr J Taylor on behalf of The Woodland Trust

Mr R Wilbourn on behalf of The Trustees of the Battledown Estate

Mr T R Gander on behalf of Cheltenham Flood and Drainage Panel

Mr D Edwards MICE

Mr M J Bowles – local resident and arboriculturalist

Mrs J Waite – local resident

Mr A Thurlow – local resident

Mrs L Lythgoe – local resident

Mr C Lythgoe – local resident

Mr R Grimshaw

## PLANS

Dwg No PL004 Revision A Proposed Block Plan

Dwg No PL005 Revision D Proposed Site Layout

Dwg No PL006 Revision A Indicative Mass Building Plan

Dwg No PL007 Revision A Affordable Housing Distribution

Dwg No PL010 Revision A Indicative Street Scenes

Dwg No PL011 Revision A Indicative Street Scene

Dwg No PL014 Revision A Nolli Plan

Dwg No 38-1036.03-B Tree Protection Plan

Dwg No 19073.101 Landscape Strategy

## DOCUMENTS

### *General and Interested Persons*

- 1 Letter of Notification of the Inquiry
- 2 St Edward's Schools Trust - letter of support
- 3 Mr Alex Chalk MP and Cllrs Savage and Babbage - written statement
- 4 Mr Wilbourn, Trustees Battledown Estate – transcript
- 5 Mrs Waite – transcript
- 6 Mr P Walker – transcript
- 7 Cllr Fisher – transcript
- 8 Mr Edwards – transcript
- 9 Mr A Walker – transcript
- 10 Mr Thurlow – transcript
- 11 Mrs Lythgoe – transcript
- 12 Mr Lythgoe – transcript
- 13 Mr Taylor and Ms Gilmartin, Woodland Trust – transcript
- 14 Mr Bowles – transcript
- 15 Mr Gander, CFDP – transcript
- 16 Planning Obligation
- 17 Suggested Conditions
- 18 Scott Schedules
- 18A Draft suggested MM to Cheltenham Plan allocation HD4

### *Submissions*

- 19ab CBC Opening and Closing Statements
- 20ab Appellants Opening and Closing Statements
- 21ab CKF Opening and Closing Statements

### *CBC Proofs and Appendices*

- 22abc Ms Mulraine
- 23ab Mr Morris

24ab Mr Williams

25 *number not used*

*Appellants Proofs and Appendices*

26ab Mr Colebrook

27abc Ms Markham

28ab Mr Baxter

29ab Mr Frampton

Mr Glaze (Mr Frampton Appendix 4)

Mr de Croos (Mr Frampton Appendix 2)

30abc Mr A Moger BA(Hons) MA MRTPI– Affordable Housing evidence taken as read

*CKF Proofs and Appendices*

31abc Mr Bell

32ab Mr Watson

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## Oakhurst Rise Application- 20/00683/OUT

### Level of Affordable Housing Provision:

The Joint Core Strategy Policy SD12: Affordable Housing states that 'on sites of 11 dwellings or more, or sites with a maximum combined gross floor space of greater than 1000 sqm; a minimum of 40% affordable housing will be sought within the Borough of Cheltenham'

This application will comprise of 43 residential units. The proposed scheme delivers 18 affordable housing units (42% affordable housing) and is therefore considered to be policy compliant.

The latest LHNA that has been commissioned requires a mix of approximately 70:30 rented to intermediate affordable provision.

### Dwelling Mix:

Therefore, having regard to local needs we would therefore seek and have agreed with the applicant to provide the following mix of affordable dwellings on this site:

42%	Social Rent	Affordable Rent (Capped at LHA levels)	Shared Ownership	Total	%
1b2p Ground Floor Maisonette M4(2) Cat 2 (50m <sup>2</sup> )-	2	0	0	2	28%
1b2p Upper Floor Maisonette (50m <sup>2</sup> )	2	0	0	2	
1b2p House M4(2) Cat 2 (50m <sup>2</sup> )	1	0	0	1	
2b4p GF Maisonette, M4(2) Cat 2, 71m <sup>2</sup>	0	1	0	1	44%
2b4p Upper Floor Maisonette, 71m <sup>2</sup>	0	1	0	1	
2b4p House, M4(2) Cat 2, 79m <sup>2</sup>	0	3	0	3	
2b4p House (67m <sup>2</sup> )	0	0	3	3	
3b5p House (82m <sup>2</sup> )	0	1	2	3	22%

3b6p House (95m <sup>2</sup> )	0	1	0	1	
4b7p House (108m <sup>2</sup> )-	1	0	0	1	6%
Total:	13		5	18	100%
	72%		28%		

The Joint Core Strategy states that where there is an issue relating to the viability of development that impacts on delivery of the full affordable housing requirement, developers should consider:

Varying the housing mix and design of the scheme in order to reduce costs whilst having regard to the requirements of other policies in the plan, particularly Policy SD4, and the objective of creating a balanced housing market.

Securing public subsidy or other commuted sums to assist delivery of affordable housing (whilst being mindful of the terms and conditions set out by Homes England's latest SOAHP Prospectus).

If a development cannot deliver the full affordable housing requirement, a viability assessment conforming to an agreed methodology, in accordance with Policy INF6 will be required. Viability assessments will be published in full prior to determination for all non-policy compliant schemes except in exceptional circumstances when it can be proven that publication of certain specific information would harm the commercial confidentiality of the developer to no public benefit. Where necessary CBC will then arrange for them to be independently appraised at the expense of the applicant.

The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do so in the knowledge that this will be made publicly available alongside other application documents.

The council will allow for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Given the significant benefits associated with the availability of information to the public as part of the decision making process, and the other factors identified above, the councils anticipate that there would be very few exceptions.

If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The council will consider this carefully, with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case.

The viability of a site may enable additional levels of affordable housing to be delivered above the requirements set out in the Joint Core Strategy. In this case the authority will

negotiate with developers to find an appropriate balance to deliver affordable housing and infrastructure needs.

**Dwelling Mix/Tenure:**

The intermediate housing should be shared ownership and we have proposed this within a mix of dwelling types as this best meets local needs.

JCS Policy SD11: Housing Mix and Standards stipulates that- “development should address the needs of the local area, as set out in the local housing evidence bases, including the most up-to-date Local Housing Needs Assessment”.

Accordingly, the Council has consulted at length with a number Registered Providers active in Cheltenham Borough to inform the affordable housing mix and general negotiations on this scheme, as well as drawing upon a range of evidence bases (as per JCS Policy SD11) which included the Council’s Housing Register, the latest Local Housing Needs Assessment and Shared Ownership need informed by data provided by Help to Buy South Agent 3.

As of May 2020, Cheltenham Borough has 2,190 households waiting for affordable housing on the Council’s Housing Register. Of these, 53 households (2%) fall into Emergency Band, 65 households (3%) fall into Gold Band, 505 households (23%) fall into Silver Band and 1,567 households (72%) fall into Bronze Band. Clearly, these statistics reflect a significant need for affordable housing in the Borough which the agreed mix will help to address.

The Council was keen to ensure that a range of dwelling types and sizes were provided on this scheme to meet a range of affordability and need requirement as set out by JCS SD11. The initial dwelling mix proposed by the applicant included a mix of 1-3 bedroom affordable homes, however, after detailed negotiations with the applicant, a more appropriate mix of 1-4 bedroom affordable homes has been agreed that meets housing needs (captured in the dwelling mix table found on Page 1). In the Council’s view, the agreed mix is far more reflective of Cheltenham’s affordable housing needs, as set out in the Council’s Housing Register.

The applicants original proposals included a number of 1 bedroom flats. The Council consulted with a number of RP’s on this matter, and eventually negotiated with the developer on the basis of providing 4 x 1b2p Maisonettes and 1x 1b2p House. From the Council’s perspective, this is a positive result that will meet both need and aspirations of affordable tenants. The NPPF sets out that ‘developments should function well in the long-term’ and that developers should look to create ‘mixed and balanced communities’. In this vein, by allowing all affordable tenants to have their own front door, this will foster a sense of belonging and community that is fundamental to creating a strong, sustainable community. It is also notable that the agreed mix also ensures that all affordable homes are provided with their individual allocation of private outdoor space (the provision of which is well-established to contribute towards positive mental and physical health outcomes).

In regards to Shared Ownership, the Council has drawn upon data from Help to Buy South Agent 3 regarding the need for Shared Ownership in Cheltenham, as well as discussing the Council’s proposed mix with a number of RP Shared Ownership Sales teams active in the area to inform negotiations. The Council is satisfied that the agreed mix meets Shared Ownership preferences in the Cheltenham area. Case and point, of 653 households

registered with Help to Buy South with a Local Connection to Cheltenham, 389 households stated a preference for a 2 bedroom property. Of these 389 households, 284 stated their preference for a 2 bedroom Shared Ownership house. Additionally, data from Help to Buy South reflects a fairly significant 3 bedroom need, with 137 households declaring their interest in a 3 bedroom Shared Ownership property. The figures outlined above correlate with the agreed mix, and hence meet Cheltenham's Shared Ownership needs.

### **Affordable Housing Layout:**

In line with JCS Policy SD12, affordable housing should be provided on-site and should be seamlessly integrated and evenly distributed throughout the development scheme to promote the creation of mixed and balanced communities. The Council would also expect that the on-site Affordable Housing should also be provided in accordance with the Council's clustering strategy, found in the JCS AHP Precedent S.106.

The Council has conducted extensive discussions with both the applicant and Registered Providers operating in Cheltenham Borough regarding the layout of the affordable housing on this scheme. The original proposed layout ran in conflict with the JCS Policy SD12: Affordable Housing, as the referenced layout located the affordable homes almost exclusively at the front of the development; this can hardly be classified as 'seamlessly integrating' affordable housing across the development scheme.

Further to this point, the Council also raised concerns with the applicant regarding the substantial number of large (3 and 4 bedroom) affordable homes in close proximity to each other in the original proposed plans. Discussions with RP's have reflected the fact that locating large affordable homes in close proximity to each other will often lead to housing management problems in the long-term, as well as stifling social interaction between people who might not otherwise come into contact with each other (as per NPPF Paragraph 91a).

This point is reinforced further by NPPF Paragraph 127a, which stipulates that planning decisions should ensure that developments will function well over the lifetime of the development.

Following negotiations with the applicant, the amended affordable housing layout meets policy requirements under JCS Policy SD12 and JCS Policy SD11 respectively. The applicant has moved a cluster of affordable homes to the North East of the site, to separate the affordable homes.

As per the Council's request, the applicant has provided private outdoor space for all affordable homes (although it is recognised that this is constrained for the 1 bedroom flats due to the natural constraints of the site) as well as accepting a mix that allowed all affordable tenants to have their own front door, which will help to foster a strong sense of belonging amongst tenants.

The design of affordable housing should meet required standards and be equal to that of market housing in terms of appearance, build quality and materials. For clarity's sake, this requirement encompasses surrounding green spaces, parking provision and the surrounding built environment, as well as soft and hard landscaping; this is with the aim of ensuring that the affordable housing is indistinguishable from the market housing, so the whole development is 'tenure blind'.

## Rents:

The 2015 SHMA Update Note indicated a substantial need for rented affordable housing in Cheltenham Borough with particular emphasis upon the need for social rented homes. Case and point, of 707 households in need of affordable housing each year in Cheltenham, Table A1.12 states that 76% of Cheltenham Borough Councils total affordable housing delivery (537 Affordable Homes per annum) should be Social Rent, compared to 15% for Affordable Rent respectively.

Examining our forthcoming evidence base, (the 2020 Gloucestershire LHNA), which is currently in final draft format but awaiting sign-off, Figure 86 sets out that 88% (1325/1511) of Cheltenham Borough Council's rented affordable housing need between 2021-2041 should be provided in the form of Social Rented homes.

The Council has identified that delivering social rented homes on this scheme will be particularly beneficial to single parent households, households with dependent children, households in part time work/relying upon agency work and individuals on zero-hour contracts, as these households are unlikely to have their full housing benefit covered by LHA Affordable Rented homes.

However, in recognition of the extensive planning history of this particular scheme (with the applicant going through two appeal processes with correspondingly reduced scheme delivery, from 90 to 69 to 43), scheme viability was a genuine consideration, and a practical approach was required from both the perspective of the developer and the Council.

Accordingly, the Council focused upon the acute affordability pressures surrounding 1 bedroom and 4 bedroom affordable housing need when negotiating on social rented provision with the applicant, securing 33% of the total affordable housing delivery on this site at social rented levels.

The Council is reassured that the 1 x 4b7p affordable home will be delivered at social rented levels, as this provides the Council with confidence that these households will not be adversely impacted by the Benefit Cap. Outside of London, the benefit cap is £384.62 per week (£20,000 a year) for a couple or a single parent living with children. In practice, Affordable Rents, even capped at LHA rates, will not be affordable for larger households in affordable housing need due to this cap.

The 2020 Gloucestershire LHNA identifies a serious affordability issue with 1 bedroom affordable rented stock for a range of family types, and the Council negotiated with the developer on the basis of addressing these acute affordability issues. Figures 35 and 38 of the 2020 Gloucestershire LHNA identifies a minimum shortfall of £792 per year, rising to a maximum shortfall of approximately £2,971 per year for a single person aged 35+ when comparing maximum housing benefit rates for the Cheltenham BRMA with annual income required to rent affordable rented properties in Cheltenham.

Therefore, on these grounds, the Council is satisfied with the agreed mix, whereby all provision of all 1 bedroom (and 4 bedroom) affordable homes are at social rented levels; this will also provide households with greater disposable income that will reduce the likelihood of households falling into 'housing stress' as well as enabling households to improve their quality of life with the increased disposable income.

From the perspective of the Registered Providers, letting affordable homes at social rented levels will help provide them with assurance that they can recoup the money spent on securing the affordable homes, as well as aligning the costs of purchasing the units with the long-term returns they may expect to receive.

Having spoken with our Preferred Providers, they have been very supportive of increasing Social Rented provision, and a number of Registered Providers active in the Cheltenham area have provided letters of support for the scheme mix and layout.

To ensure that the affordable rented contingent of this scheme is affordable in perpetuity as per JCS Policy SD12, the Council also conducted affordable housing negotiations on the grounds of ensuring that the affordable rented homes did not exceed Local Housing Allowance (LHA) rates. This point has been agreed with the applicant, and will be enshrined within the S.106 agreement for this scheme, providing the Council with assurances that these affordable tenancies will be affordable in perpetuity, and that rents will be fully covered by Housing Benefit.

### **Service Charges**

Any service charges on the affordable dwellings should be eligible for Housing Benefit.

Service charges should be kept minimal. This can be achieved through the design and we would be happy to refer you to RP's for further input if necessary. This is supported by the fact that RP's have provided feedback to the Council which reflects that areas requiring intensive upkeep may reduce the financial offer the RP's are willing to bid on a site.

The Council would also require that, where service charges arise, for details of the financial costs of these service charges to be made fully transparent to both the Council, the Registered Providers and the residents living in the allocated affordable homes.

### **Shared Ownership Units:**

The intermediate housing should be Shared Ownership dwellings should be let at a level that is affordable, having due regard to local incomes and local house prices; the Council would expect that the allocation and affordability of Shared Ownership homes will be made in line with the Capital Funding Guide (CFG).

Owing to the high land values surrounding this scheme, the Council would remind RPs to be mindful of the provisions of the Capital Funding Guide (CFG) which allows initial equity shares to be marketed from anywhere between 25% to 75% respectively.

Provision should be made, where possible to ensure that housing will remain at an affordable price for future eligible households, or that subsidy will be recycled for alternative housing provision.

### **Car Parking:**

Parking provision for affordable homes will be expected to be made on the same basis as that provided for market dwellings.

### **Affordable Housing Standards:**

We would expect all the affordable housing to meet minimum gross internal floor area size measurements, space, design and quality standards as described by Homes England.

Having discussed the proposed sizes with the Registered Providers, the Council would highlight that all 4 bedroom 7 person dwellings should be built to meet a minimum of 108m<sup>2</sup>, in line with the JCS AHP Precedent Guidance Note, instead of the 107.5m<sup>2</sup> currently proposed within the planning layout.

Living in an insufficiently sized home can have serious direct and indirect impacts upon the physical and mental health, educational attainment, relationships and social cohesions which may ultimately have a damaging impact upon the quality of life of affordable housing tenants.

For the sake of clarity, the minimum standards expected and agreed with the applicant for affordable homes of all tenures are contained within the dwelling mix table contained on Page 1.

Amendments to M4 (1), M4 (2) and M4 (3) of schedule 1 to the Building Regulations 2010 took effect on 1<sup>st</sup> October 2015 therefore we would seek the following:

The Council would expect that all general needs accommodation should, at the bare minimum, be designed to meet or exceed the sizes specified in the JCS AHP Precedent Guidance Note, with the negotiated provision of M4(2) Category 2 accessible and adaptable housing on this specific site being found in the Council's proposed dwelling mix on Page 1.

In terms of the Council's adopted policy and rationale justifying this approach and the agreed mix, JCS Policy SD11: Housing Mix and Standards encourages new homes (including affordable homes) to be designed to be accessible and adaptable as far as compatible with local context and other JCS policies. Further to this point, the latest PPG on housing for older and disabled people states that- "Accessible and adaptable housing enables people to live more independently, while also saving on health and social costs in the future".

Accordingly, the latest LHNA sets out, in Paragraph 9.111, that 67% of all housing should meet M4(2) Category 2 requirements, and preferably more to account for the lack of provision in the existing housing stock.

Examining the population projections included within the latest LHNA, Cheltenham's population is projected to grow by 9,802 households between 2021-2041 (Figure 83), of which 79% of this total growth (7,782) will be in the 65+ age demographic. It is also significant that, as household circumstances change, for instance, through the addition of household members with disabilities, the onset of a progressive illness, or a sudden accident that limits mobility, and frailty increases with age, affordable housing should be adaptable to such circumstances.

Considering the health and social benefits of building homes to M4(2) Category 2 standards, NHS England has been clear in emphasising the positive benefits of households and individuals remaining in their current homes and communities wherever possible to reduce the strain upon the NHS and the Social Care system. From a practical perspective, the provision of accessible and adaptable M4(2) Category 2 homes in line with identified needs can also help to prevent trips and falls and enable tenants to have complete access to their property- again, taking pressure off of the NHS and Social Care resources.

In this vein, the agreed mix, whilst not reaching the LHNA's recommendations due to issues with the comparatively limited space on this site and concerns about viability, does nevertheless provide a significant contingent of M4(2) Category 2 dwellings that will make a significant contribution to meeting both current and future needs for these properties in the Borough.

Any wheelchair user dwellings should be designed to meet the 2015 amendments of M4(3) Category 3 Building Regulations. As the gross internal areas in this standard will not be adequate for wheelchair housing, additional internal area would be required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

There is no longer a requirement for a specific level of code for sustainable Homes Standard to be achieved to meet Homes England standards for new affordable homes. This is therefore to be negotiated with the developer.

In light of the above, the Council would therefore encourage the developer to ensure that the affordable homes are built to a minimum of energy efficiency EPC B Standards or above, to ensure that the affordable homes provided help to keep tenants warm and well, as well as saving them money on heating costs (thus helping to tackle fuel poverty and the negative impacts this can have on physical and mental health).

#### **Full Planning Application:**

On submission of a full planning application we would require an Affordable Housing Plan as part of the application, detailing the location of both the market and affordable homes in terms of their type, tenure and size as well as highlighting parking spaces and the dwellings they serve.

The Council will also require that floor plans for both the market and affordable homes are provided with the submission of a full planning permission.

#### **Registered Providers**

All affordable housing should be provided by a Registered Provider who will be expected to enter into a nominations agreement with the Local Authority, providing 100% nominations on first letting/sale and 75% of all subsequent lettings thereafter and will also be expected to market the Shared Ownership units through Help to Buy South Agent 3. This will assist the Local Authority in meeting its statutory housing duties under the Housing and Homelessness legislation.

A list of Registered Providers managing accommodation in Cheltenham can be made available if needed.

**Ewan Wright**

**Housing Strategy and Enabling Officer**

**17<sup>th</sup> June 2020**



	<ul style="list-style-type: none"> <li>- PL001</li> <li>- PL003</li> <li>- PL004 Rev B</li> <li>- PL005 Rev B</li> <li>- PL010 Rev B</li> <li>- SK01 Revision: U</li> <li>- SK09 Revision: X</li> <li>- SK25 Revision: F</li> <li>- SP01 Revision: W</li> <li>- SP02 Revision: T</li> <li>- SP07 Revision: E</li> </ul>		
<p><b>Details of recommendation:</b></p>	<p><b><u>Local Transport Network</u></b></p> <p>The site is located to the east of Cheltenham town centre within Charlton Kings. The site is bound to the north, east and west by existing residential development and to the south by St. Edward's Preparatory School. The proposed development site will be accessed directly from Oakhurst Rise. Oakhurst Rise is a publicly maintainable historic cul-de-sac that has safely served some 30+ residential dwellings for a number of years, connecting to Ewens Road and Beaufort Road at its southern extent in the form of a simple priority junction. Oakhurst Rise and all of the other roads in the locality have pedestrian footways to both sides of the highway and feature street lighting.</p> <p><b><u>Existing &amp; Proposed Land Uses</u></b></p> <p>The site is currently 4.29 hectares of pasture. The proposed land use will change to occupy 43 residential dwellings comprising of:</p> <ul style="list-style-type: none"> <li>- 4 1 bedroomed maisonettes;</li> <li>- 2 2 bedroomed maisonettes;</li> <li>- 1 1 bedroomed house;</li> <li>- 8 2 bedroomed houses;</li> <li>- 9 3 bedroomed houses; and</li> <li>- 19 4 bedroomed houses</li> </ul> <p><b><u>Accessibility – Public Transport, Walking &amp; Cycling</u></b></p> <p>The site is sustainably located and is deemed to be within acceptable walking distance of local amenities. In addition the site is also accessible to high quality public transport facilities located nearby with the nearest bus stops located on Beaufort Road to the south-west and slightly further afield on the A40 to the south. The bus serving the stop on the A40 London Road operates regularly at peak hours with services connecting to centre of Cheltenham Town.</p>		

## Access

Vehicular access to the site will be provided from Oakhurst Rise, via a continuation of the existing cul-de-sac. Oakhurst Rise is a class 4 highway with a carriageway width of approximately 5.5m and is subject to the sign posted 20mph speed limit. The continuation of carriageway into the site will remain at a width of 5.5m with 2m wide footways on both sides of the carriageway.

## Layout

The proposed internal layout will primarily be 5.5m wide carriageways with 2m footways on either side throughout the layout which is sufficient width to accommodate the passing of two private estate vehicles and ensures that conflict with vulnerable users is minimised in accordance with Paragraph 110 of the National Planning Policy Framework (NPPF). The remaining areas within the site will be shared surface and vary in width between circa 6.8m - 7.5m; full height kerbed footways are tapered transitioning pedestrians into these shared areas with transitional rumble strips / ramps indicating drivers that they are entering areas with a change in highway user priority.

As two private estate cars can pass one another simultaneously throughout the site forward visibility is only required for larger vehicles (such as a refuse vehicle) and a car where they cannot safely pass simultaneously. As drivers of larger vehicles typically sit further forward than in a car due to the bonnet length being reduced this provides them with enhanced forward visibility. Therefore with the aforementioned and the infrequency of two such vehicles meeting it is deemed that speeds and the required visibility in these locations will be low.

Refuse vehicle swept path analysis (SPA) shown on plan ref. SP01 Revision: W demonstrates that an 11.2m 3-axle refuse vehicle can safely enter, manoeuvre through and egress the site in forward gear without conflict. The SPA has demonstrated that where a car is unable to pass a refuse vehicle adequate levels of driver to driver inter-visibility can be achieved to allow one another to give way. The refuse vehicle can also get within 25m of all refuse storage points.

Forward visibility of 25m commensurate with the design speed of 20mph has been demonstrated (plan ref. SK01 Revision: U) around all bends throughout the main estate layout.

As the site has a gradient, when a planning application is submitted the developer will have to bear in mind how they propose to construct the carriageways to an acceptable gradient. There are many ways that the required gradients can be achieved through various earthwork techniques. However, at planning stage technical details such as carriageway gradients are not assessed as this will take place once planning permission has been established through the technical approval process.

Gloucestershire County Council's Technical Specification for New Streets provides guidelines for adoptable gradients and geometries and these must be achieved if the roads are to be adopted. Even if the developer does not want the carriageways and footways within the site to be adopted they must still be constructed to an adoptable standard.

## Parking

As there are currently no local car parking standards in Gloucestershire, the suitability of the parking provision will instead be assessed against the methodology set out in the NPPF. A further Ministerial statement published in March 2015 stated that Local Planning Authorities should only impose local parking standards for residential and non-residential

development where there is a clear and compelling justification that it is necessary to manage their local road network.

Residential parking provision should be compliant with Paragraph 105 of the NPPF, a part of that methodology looks at forecast local demand of car ownership levels based upon the 2011 census data.

In total the proposed development will provide a total of 86 parking spaces for the 43 dwellings with a mix of garages, driveway car parking spaces and, in addition 8 visitor car parking spaces will also be provided. The overall allocated spaces equates to an average of 2 parking spaces per dwelling, which is in excess of the local car ownership Census data levels. The 2011 local car ownership Census data identified an average car ownership within area E01022104:Cheltenham 012B of approximately 1.20 cars per dwelling.

<u>Car / Van</u>	<u>Number</u>	<u>%</u>
All categories: Car or van availability	721	100.0
No cars or vans in household	122	16.9
1 car or van in household	349	48.4
2 cars or vans in household	200	27.7
3 cars or vans in household	37	5.1
4 or more cars or vans in household	13	1.8

In addition the site will provide a minimum of 2 secure cycle storage facilities per dwelling. Cycle storage provision will encourage an active lifestyle and can act as a suitable substitute to the private car over short distances. A 3 mile utility cycle is a convenient distance for cyclists of all abilities whilst longer journeys of 5 miles or more according to LTN 2/08 allows experience cyclists to commute to work as well as provide scope to combine with alternative modes of sustainable transport to create longer environmentally friendly journeys. Cycling does have the ability to create a modal shift away from the private motor car.

Cycle storage for the houses and maisonettes can be accommodated within a rear garden shed, the shed should have a stand secured to the foundations and fixed lockable door. They should be positioned as such to allow for overlooking from a habitable room, this will allow for passive surveillance and help to reduce potential crime. The cycle storage serving the apartments can be provided by way of an appropriately positioned external store located close to pedestrian entrances and accesses. The store must be safe, secure and covered. Cycle storage facilities will be secured by way of planning condition.

### **Road Safety Audit**

A Stage 1 Road Safety Audit (RSA) was undertaken for the site layout in accordance with Design Manual for Roads and Bridges (DMRB) GG-119. All issues raised within the audit

have been agreed to within the designer's response and demonstrated on plan refs. SK01 Revision: U, SP01 Revision: W, SP02 Revision: T and SP07 Revision: E which have addressed the road safety issues raised.

## **Non-Motorised Users**

A non-motorised user's assessment was undertaken based on the principals of DMRB GG 142 'Walking, Cycling & Horse-Riding Assessment and Review' with an aim to identify any shortfalls in pedestrian facilities and whether it would be reasonable to secure off site mitigation of the routes identified within the report. The report identifies deficiencies in the surrounding walking/cycling network and routes to destinations which should be improved for non-motorised user's accessibility, safety, comfort and convenience.

Walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and Planning Policy Statement 13 Transportation and Land Use document states that walking offers the greatest potential to replace short car trips, particularly those under 2km. Manual for Streets encourages a reduction in the need to travel by car through the creation of mixed-use neighbourhoods with interconnected street patterns, where daily needs are within walking distance of most residents.

Whilst it is acknowledged that in a couple of cases the distances between the site and destination walking distances were slightly underestimated, based on IHT guidelines which states that an average walking speed is approximately 1.4m/s, when distances are increased they would still coincide with the preferred maximum suggested walking distances.

The overall outcome of the assessment review identified that the existing routes were of a good standard with only a small number of pedestrian crossing improvements required. These have been secured by way of suitably worded planning condition.

## **Vehicle Trip Generation**

During scoping discussions, the Highway Authority stated that the TRICS (Trip Rate Information Computer System) trip generation data presented by the applicant's transport consultant was not comparable to the proposed development site. The Highway Authority requested a local validation survey should be undertaken to determine the forecast trip generation. It was agreed that an Automatic Traffic Count (ATC) survey could be undertaken on Charlton Court Road, as this was considered to provide a typical trip rate for the area which could be used to forecast vehicular trips at the proposed site. As Charlton Court Road is of a similar geometry it is considered to be robust for the purposes of estimating the projected trip rates from the proposed development.

The use of the donor site (Charlton Court Road) is considered to be robust for the purposes of estimating the trip generation from the proposed development. The daily trip generation from the local donor site is approximately 25% higher than the daily trip generation presented in the scoping report presented by the applicants transport consultant, derived from the TRICS database.

The donor site recorded a two-way AM peak hour trip generation of 0.44 trips per dwelling consisting of 0.11 arrivals and 0.33 departures and a two-way PM peak hour trip generation 0.48 trips consisting of 0.31 arrivals and 0.17 departures per dwelling (based on 35 dwellings). For a 43 dwelling development, based on the donor site figures, the development would generate 19 AM peak hour trips consisting of 5 arrivals and 14

departures and 21 PM peak hour trips consisting of 13 arrivals and 7 departures.

## **Distribution & Traffic Impact**

Based on the 2011 Census Journey to Work Travel data, the proposed vehicle distribution can be determined. 51.8% of development traffic will be distributed left out of Oakhurst Rise onto Beaufort Road and Charlton Court Road, travel west along the A40 towards Cheltenham, 22.1% will be distributed right out of Oakhurst Rise, travel west along Ewens Road towards the B4075 Hales Road, 11.7% will turn left out of Oakhurst Rise onto Beaufort Road and Charlton Court Road, travel west along the A40 towards Cheltenham and turn left onto the A435 and the remainder will turn left out of Oakhurst Rise onto Beaufort Road and Charlton Court Road, travel east along the A40 towards Charlton Kings.

Four broad route choices have been identified as use of a “quickest” route choice for traffic travelling to/from the development site and each Middle Layer Super Output Area (MSOA), noting the small variations between AM and PM routes to account for one-way and banned turning movements in Cheltenham.

1. A40 W (London Road) and A40 S (Old Bath Road / Sandford Mill Road) – to access MSOA locations to the south and west of the site including Cheltenham town centre;
2. Ewens Road and residential streets surrounding the site – to access MSOA locations to the north;
3. A435 S (Cirencester Road) – to access MSOA locations to the south and east of the site; and
4. A40 E (London Road) – to access MSOA locations to the east of the site.

As this application is for 43 dwellings, and therefore 25 dwellings less than sought previously, based on the reduced projected number of trips the site will generate and subsequent reduction in the percentage of these trips assigned and distributed along the quickest routes it is not deemed necessary to revisit the off-site junction modelling assessments that have previously been assessed.

## **Personal Injury Collisions**

Personal injury collision statistics have been presented for a study area which covers the A40 London Road to the east, A435 to the south and Old Bath Road to the west.

Five collisions were recorded within the study area over the 5 year period with two recorded as serious. These collisions are considered to have occurred as a result of driver, pedestrian or cyclist error rather than being attributable to the geometry of the local highway network.

There has been no personal injury collisions recorded on Oakhurst Rise and therefore nothing to suggest that this highway is unsafe nor anything to suggest that the traffic generated by additional dwellings would make this section of highway unsafe. Overall it is reasonable to conclude that there is not an excessive amount of personal injury collisions on the wider network and those collisions that do occur are spread. Therefore it is reasonable to conclude that the additional traffic generated by the development will not have a material impact on general road safety in the area.

## **Residential Travel Plan**

The Department for Transport (DfT) defines a travel plan as “a long term management strategy that seeks to deliver sustainable transport objectives through positive action”. Such plans could include; car sharing schemes, commitment to improving cycle facilities,

dedicated bus services or restricted parking allocations. A successful Travel Plan should offer users whether they are employees, residents or visitors a choice of travel modes from sites or premises.

The submitted Travel Plan for this application aims to reduce the dependence upon single occupancy private car travel when accessing the site and in order to do so the Travel Plan aspires to;

- Reduce the percentage of residents travelling by single occupancy private car to and from the site.
- Generate increase in the percentage of residents utilising active modes (walking/cycling), public transport and car sharing.

In order for the Travel Plan to achieve these aims a number of actions and measures will need to be implemented. The applicant will appoint a Travel Plan Coordinator, whose duty it is to oversee the implementation and monitoring of the Travel Plan. The Coordinator will be appointed prior to the dwellings being occupied.

The Travel Plan will obtain the base survey data once 30% of the dwellings have been occupied, with initial targets set at a 10% reduction in single occupancy car journeys based on Census travel to work data in the interim. Targets can then be updated once the baseline travel survey has been undertaken. Once base survey data has been obtained at 30% occupancy the Travel Plan Coordinator will review the Travel Plan annually associated targets and measures adjusted accordingly. The Travel Plan aims to reduce single occupancy private car use year on year. A 5 year period is acceptable for this type and size of development. The Travel Plan can be secured by way of planning condition.

### **Recommendation**

**The National Planning Policy Framework (NPPF) states at paragraph 109 that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. The Highway Authority considers that this development will not have a severe impact on the local highway network. The NPPF also states that “safe and suitable access to the site can be achieved for all users”, “appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location”, and that “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”. It is considered that the development proposals will meet these criteria. The Highway Authority recommends that no highway objection be raised subject to the following conditions being attached to any permission granted:**

### **PCC1 Works affecting the Highway**

No works shall commence on site on the development hereby permitted until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to and approved in writing by the Local Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed and are open to the public.

Reason: In the interest of highway safety and to ensure that all road works associated with the proposed development are: planned; approved in good time (including any statutory processes); undertaken to a standard approved by the Local Planning Authority and are completed before occupation.

## **PCC2 Construction Management Plan**

Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement 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;
- 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; and
- 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.

## **POC1 Completion of Vehicular Access – Shown on the approved plans**

No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

Reason: In the interest of highway safety.

## **POC5 Completion and Maintenance of Car/Vehicle Parking – Shown on approved plans**

No building or use hereby permitted shall be occupied or use commenced until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans PL005 Rev B and SK25 Revision: F has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that there are adequate parking facilities to serve the development constructed to an acceptable standard.

## **POC6 Completion and Maintenance of Cycle Provision**

The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 2 no. bicycles per dwelling have been made available for use and those facilities shall be maintained for the duration of the development.

Reason: To ensure the provision and availability of adequate cycle parking.

## **POC10 Travel Plan – Submitted**

Prior to occupation or use commenced, evidence that the pre-occupation elements of the approved Travel Plan have been put in place shall be prepared, submitted to and approved

in writing by the Local Planning Authority.

The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling.

### **POC12 Provision of Pedestrian Visibility Splays**

The individual vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

Reason: To ensure motorists have clear and unrestricted views of approaching pedestrians when pulling out onto the adopted highway, in the interest of highway safety.

### **POC15 Electric Vehicle Charging Points**

The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To promote sustainable travel and healthy communities.

### **POC19 Retention of Garage/Car Parking Space(s)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To retain garage/car space for parking purposes.

### **Notes & Advice:**

### **A4 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 Councils costs in undertaking the following actions:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details

## iv. 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.

### **A6 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 Councils cost's in undertaking the following actions:

- I. Drafting the Agreement
- II. Set up costs
- III. Approving the highway details
- IV. 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.

### **A8 Impact on the highway network during construction**

The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.

### **A17 Construction Environmental Management Plan (CEMP)**

It is expected that contractors are registered with the Considerate Constructors scheme and comply with the code of conduct in full, but particularly reference is made to "respecting the community" this says:

Constructors should give utmost consideration to their impact on neighbours and the public

- Informing, respecting and showing courtesy to those affected by the work;
- Minimising the impact of deliveries, parking and work on the public highway;
- Contributing to and supporting the local community and economy; and
- Working to create a positive and enduring impression, and promoting the Code.

The CEMP should clearly identify how the principle 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.

CEMP can include but is not limited to:

- A construction programme including phasing of works;
- 24 hour emergency contact number;
- Hours of operation;
- Expected number and type of vehicles accessing the site;
  - Deliveries, waste, cranes, equipment, plant, works, visitors;
  - Size of construction vehicles;
  - The use of a consolidation operation or scheme for the delivery of materials and goods;
  - Phasing of works;
- Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
  - Programming;
  - Waste management;
  - Construction methodology;
  - Shared deliveries;
  - Car sharing;
  - Travel planning;
  - Local workforce;
  - Parking facilities for staff and visitors;
  - On-site facilities;
  - A scheme to encourage the use of public transport and cycling;
- Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residual roads;
- Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
- Location for storage of plant/waste/construction materials;
- Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;
- Any necessary temporary traffic management measures;
- Measures to protect vulnerable road users (cyclists and pedestrians);
- Arrangements for temporary facilities for any bus stops or routes;
- Highway Condition survey;
- Method of preventing mud being carried onto the highway; and
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

<b>Required consultation:</b>	<b>ITU</b>		<b>Highways Records</b>	
	<b>Rd Safety</b>		<b>Fire Service</b>	
	<b>PROW</b>		<b>Structures</b>	
	<b>LHM</b>		<b>Police</b>	

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## **CK Friends Objection (health warning – contains photographs of reptiles)**

This outline application offers clear cut choice between two value propositions:

1. the commercial book value of the land being increased (with the promise of future housing, including a policy compliant level of social / affordable housing).
2. the inherent ecological, heritage, educational and social value of the land being protected (as benefits all Gloucestershire county primary school pupils, thousands of residents of Charlton Kings, and the wider Cheltenham community).

Those supporting this application will claim both the above can be true. National experience of land banking strategies provides a rather gloomier perspective. This site has intrinsic community value that would be impossible to influence further, if outline planning permission is granted and the land passes from charitable to private ownership.

Our objection comes on the back of a clear cut appeal just 7 months ago where residents invested considerable time and money in supporting CBC's position, objecting to 68 houses.

Residents remain implacably opposed to the unsustainable development of this special site; we welcome the application for a similar number of houses in Bouncers Lane (also with policy compliant social housing) and supported the development of a nearby brownfield site currently occupied by Tim Fry Landrover (application refused).

Our objection runs deeper, due to profound unease over the case presented. **The baseline data associated with this application has been unsound from the outset, in almost every area**, despite detailed evidence submitted to clarify or more often correct. If the data is wrong, modelling and desk based studies by county authorities produce flawed results. This impacts sustainability, trees, transport, flood risk and ecology.

Not one of the county consultees has referred to evidence from residents (including our detailed Rule 6 submissions to the inspector during the appeal, which are no longer available through the planning portal). Residents voices are the only challenge to inaccurate data and outright misdirection, and they are being ignored – that is not reasonable.

On every area of contention associated with this new application, new or different data has been generated to claim policy compliance. For example, the applicants are on their 4<sup>th</sup> heritage consultant, each of whom has taken a different position. The tree report (version 2 associated with the new application post lockdown) contradicts itself on the felling of TPO'ed trees. The drainage strategy has changed again, but without further comment or risk assessment. The transport data is demonstrably wrong.

Conversely, the objections have been consistent. An experienced planning inspector made his views extremely clear in October 2019. Historic England remain implacably opposed to this latest iteration. Friends have said the same things in commentary on 3 applications and one appeal.

**We, like HE, see the same site and flaws and we ask CBC planning department to assess the evidence, not the history**, in advising the planning committee. **The case now presented in opposition, particularly on ecology, is significantly stronger than that represented to the inspector in August.**

In particular, new research informs:

- the importance of hedgerow ash trees without dieback<sup>1</sup>; they **appear to be more disease resistant than woodland trees** and therefore are **increasing valuable; assertions they have a limited lifespan are unfounded.**
- the badger population; minimum **5 adults plus cubs**, not a single breeding pair as represented to the inspector. Only a single artificial sett is provided for.
- the importance of nature connectedness in urban communities; **Natural England's research** published 16 March 2020 reinforces the critical benefits of access to nature sites such as these for both mental health and personal benefit, but also to influence long term behaviours around sustainable living and climate change.
- the unique biodiversity of the existing wildflower meadow; including **legally protected species not mentioned in the applicants' assessment of biodiversity harm**, records of the chimney sweeper moth not recorded in the borough since 1964 (itself an indicator species of high value grassland), and presence of a range of protected species.
- The level of importance of the biodiversity of the site; it qualifies for consideration as a key wildlife site. Since the appeal in only August 2019, a further 6 sedge and wildflower species have been identified, meeting the criteria of 20 grassland species required to make a case for a KWS. Being next to a school strengthens the case.
- The extreme limitations of the transport plan (on top of repeated challenge to inaccurate baseline data) **Allowing this data to stand in a Covid world risks negligence claims.** [Gloucestershire Highways commentary on peak capacity excess should have informed the local plan].

We contend that the original arguments stand as a backdrop:

- Increased flood risk, from surface water flooding, springs and inadequate sewerage capacity
- Lack of school places, particularly at primary level, and of any GP capacity (noting the problems we will face as a community post Covid)
- Impact on the AONB and the CK conservation area (exacerbated by the new roof profile at the top of the site)
- Loss of amenity to local residents

More detailed analysis is attached. To assist, quotes from the inspectors report on the planning inquiry are in **green**. Quotes from the developer's consultancy reports are in **red**.

And finally, the timing of this application is regrettable; a number of affected residents are in shielded households, some without internet. They remain disenfranchised and with heightened anxiety at an already difficult time. While the Covid crisis is unprecedented, any consideration of the impact on existing residents might have given rise to a different approach and timing. This community engagement is mandated in the NPPF, and its absence here is notable, although sadly predictable.

CK Friends  
3 June 2020

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<sup>1</sup> Landscape epidemiology of ash dieback, Journal of Ecology, published 15 April 2020

**Detailed objections**

**A. This is not plan led**

1. It is contrary to the development plan which is now awaiting adoption, exceeding the (albeit approximate) planned site allocation of 25 by 72%. This excess affects every area of strategic planning; the local road infrastructure that Gloucestershire Highways admit is already over capacity, overstretched GP services, and unavailable (particularly primary) school places.

36. "Policy HD4 of the draft Cheltenham Plan, **for approximately 25 dwellings, to a layout that respects the existing urban characteristics of the vicinity and the character, significance and setting of heritage assets that may be affected by the development, subject also to protection of key biodiversity assets**"

2. We have an application for 43 dwellings, which does not respect the character, significance and setting of heritage assets, particularly the Grade 2\* Ashley manor, and that ignores, let alone fails to protect, key biodiversity assets from wildflower meadow to important hedgerow to legally protected and nationally declining species. This is not plan led – and plan led decisions are at the heart of the NPPF.

**B. It causes unnecessary heritage harm, in contravention of CBC's statutory duties<sup>2</sup>**

3. This application causes harm to the setting of a Grade II\* listed building, and to the setting of a Grade II listed building. National policy (NPPF para 184 and 193) requires any harm to a heritage asset or its setting to have a clear and convincing justification; none is presented above the delivery of affordable housing **at the level required by local policy**. A tilted balance cannot be invoked where heritage assets are involved.
4. The impact on the setting of Ashley Manor (Grade II\* listed) was clearly identified as unacceptable by the inspector in August 2019; this application is very similar **in its domination of the setting of Ashley Manor, as seen from the grounds and entrance of the Manor itself, and from Charlton Kings village and the AONB**.



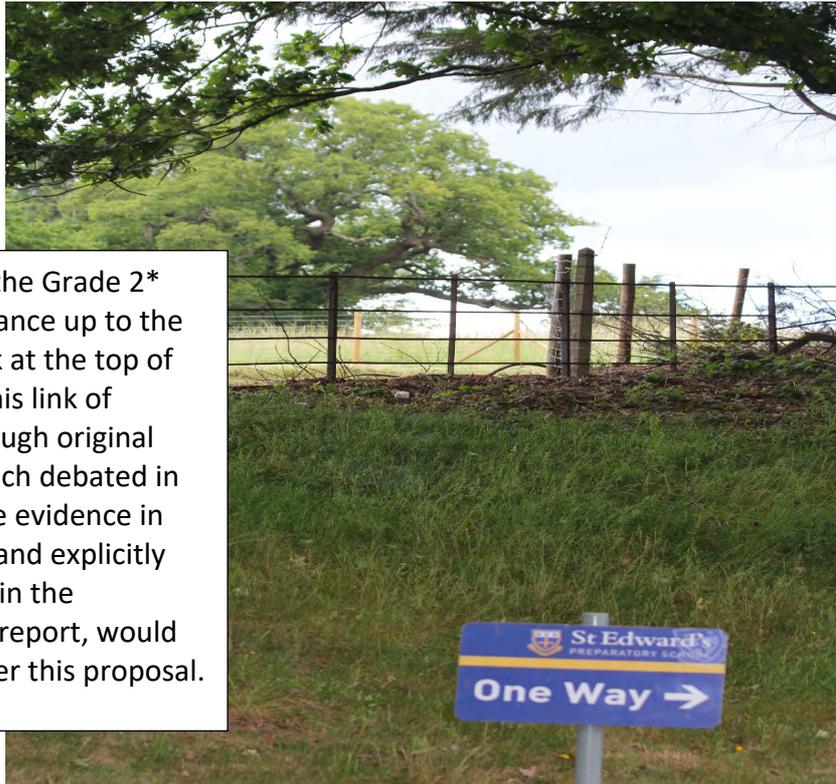
Grade 2\* Ashley Manor, proposed development site visible through the trees



The view from the school farm to the left hand side of the Grade 2\* Ashley Manor; proposed development of this corridor is almost identical to the previous, rejected, application.

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<sup>2</sup> The full Inspector's ruling on harm to Ashley Manor at annex 1



View from the Grade 2\* school entrance up to the veteran oak at the top of the field. This link of setting through original fencing, much debated in the heritage evidence in the appeal and explicitly referenced in the inspector's report, would be lost under this proposal.

5. The issue, accepted by the inquiry, of night time urban street lighting framing what is currently a dark and rural setting, has not been addressed. Heavy screening will to break the relationship between Ashley Manor and its setting. Heritage planning guidance is explicit that screening is not in itself, sufficient. Perversely, this new design puts the highest ridge lines (9.7m) at the top of the site, thereby **increasing the impact** on the setting of the two adjacent listed properties as compared with previous applications. The impact will be clearly visible from both the AONB and from the Charlton Kings conservation area. The Inspector only 9 months ago reinforced that position – **“Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views”**



X = felled trees and hedgerow, build area (approximated)

View from A435 (AONB) entering Cheltenham



View from Charlton Kings common (AONB)

6. The inspector also noted the harm to the setting of Charlton Manor, “the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows... The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.” This application moves the build line back just 30 metres and proposes a dense screen of trees which would take decades to mature.
7. Historic England are categorical in their continued objection to the harm from this development, in language that is consistent with the inspector’s findings 9 months ago. Authorising the over development of the grounds of a Grade II\* asset (the top 10% of heritage assets in the country), against the position of the statutory consultee on heritage, is in clear contravention of NPPF para 11di and para 192, and of SD8.
8. Loss of the setting of the grade II\* building will impact on the public ability to experience, often in a formative way, a key Cheltenham heritage asset. Objections have been raised by Whitefriars old boys from the 1960s who still recall their cross country runs past the Grade II\* manor house and up and around the ice house. Hundreds of children and their families get that opportunity each year, from all backgrounds. Although the cross-country competitions are held at a private preparatory school, they are open to primary and senior school children from across the county. Thousands of locals also get to appreciate the asset during the annual fireworks event, with the bonfire taking place on the proposed development site. Para 184 of the NPPF notes that heritage assets are “an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”. **This heritage asset and its setting would not be enjoyed in the same way, or used in the same memorable way, nor be open to the public in the same way, if the land were to transfer from charitable to private ownership on approval of the outline permission.**

**C. Biodiversity is permanently and significantly reduced, including unacceptable impact on protected species.**

Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

9. The ecology reports have repeatedly under-reported the biodiversity of the site, yet still claim harm to biodiversity is both possible and policy compliant. “In summary, the proposals have sought to minimise impacts on biodiversity, and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in significant harm to biodiversity.” CP3 relates to sustainable development and states: *Development will be permitted only where it would: (c) conserve or enhance the best of the.. natural environments; (d) safeguard and promote biodiversity.* The CBC policy is not to “consider it unlikely to cause significant harm”. It is to safeguard and promote, conserve and enhance.

10. The site design statement records that “**the open spaces within the site comprise unkempt grass**”. They fail to mention the minimum 65 different grasses, rushes and wildflowers present; the Lidar imagery showing historical ridge and furrow (evidencing this site having not affected by modern farming techniques). Or that the meadow meets the **qualification standard for consideration as a Gloucestershire key wildlife site**, being covered through the spring and summer with wildflowers, **including the legally protected English bluebell and 20 species from the KWS listings for grassland**. Arguments that ‘wildflower meadow / parkland will be created’ are specious – it is already in existence.
11. Failing to mention clearly visible and identifiable legally protected species is a considerable oversight in three years of notional ecological study. Other limitations in the ecology work include denying the presence of amphibians, downgrading the grassland, failing to mention the existing species range in the wildflower meadow, and avoiding any industry standard reptile surveys. The ‘avoid – mitigate – compensate’ hierarchy cannot be met when protected species already present have not been properly surveyed or accounted for. Residents’ reporting through lockdown has been lodged with GCER (Gloucestershire Centre for Environmental Records), based on recordings of birdsong, video and photographs, GPS records to geo-locate the sightings, and has been validated by various expert county recorders. **Amongst the legally protected species on the site there are English bluebells, common toad, grass snake and slow worms, at least 8 protected or conservation listed birds, the badgers, smooth newts and at least 5 different bats of conservation concern (all invoking policy SD9 2i).**

Policy NE1 relates to habitats and legally protected species and states: *‘Objective O18: Development which would materially harm, either directly or indirectly, a site supporting any legally protected species will not be permitted unless safeguarding measures can be provided through conditions or planning obligations to secure its protection.’*

It is impossible to safeguard species that have as yet not been acknowledged in the design. **The failure to contemplate safeguarding of 16 legally protected species** is sufficient grounds to refuse permission for this scheme outright.

**Policy NE3 relates to biodiversity and geodiversity of local importance and states:** *Development which would harm, either directly or indirectly, a habitat, species or geological site of local importance (note 1) will only be permitted where: the features of interest can be maintained within the development, or suitable measures of mitigation or compensation can be provided.*

The claims of mitigation across the site are in competition with one another; and the mitigation for removal of the important hedgerow (in and of itself an ecologically significant habitat) involves the destruction of bluebell populated wildflower meadow, reptile habitats and badger foraging, to offset with tree planting.

12. The badger sett that is on the field occupies an estimated 1 acre of subterranean space, according to the Badger Trust. They have 4 hectares of foraging and are rarely in conflict with people or traffic. A constrained artificial sett, recognised as rarely effective, a constrained foraging area (with stock proof fencing to protect the school land and primary school pupils) and the close proximity of traffic, according to the planning inspector, “**implies a reduction in the biodiversity of the site in respect of its current badger population**”. Video demonstrates the minimum population is now **5 badgers, plus any offspring, vice the 2 plus offspring reported to the inspector.**

**Warning – reptile pictures on next page. All residents' sightings were recorded of photographed on 2 weekends in May 2020, and therefore can be assumed to be a fraction of the total ecology of the site.**

**Birds identified by sight or by sound** using the Android Birdnet app during a single May weekend (plus Aspect data). Sound recordings have GPS data attached if required. All were situated within the 10 acres of fields off Oakhurst Rise, Cheltenham. GR SO9621

Species	Date	Sight	Sound	conservation status
Treecreeper	02/05/2020	x		
Chiffchaff	02/05/2020		x	
Dunnock	03/05/2020	x	x	amber
Magpie	03/05/2020	x	x	
Green woodpecker	03/05/2020	x	x	
Great tit	03/05/2020	x	x	
Yellowhammer	03/05/2020		x	red
European Blackcap	03/05/2020	x	x	
Blue tit	03/05/2020	x	x	
Woodpigeon	04/05/2020	x	x	
Blackbird	04/05/2020	x	x	
Eurasian Wren	04/05/2020	x	x	
Song thrush	04/05/2020	x	x	red
European Robin	04/05/2020	x	x	
Long tailed tit	04/05/2020	x	x	
		x		legally protected
Red kite	04/05/2020			
Buzzard	04/05/2020	x		
Tawny Owl	04/05/2020		x	amber
Lesser Woodpecker	Aspect report			red
Cuckoo	04/05/2020		x	Red
House Sparrow	Aspect report			red

1 of many grass snakes routinely seen by residents north of the ice house, this one snapped by an Oakhurst Rise resident, basking by the pond



Slow worm and common toad (both NERC priority species) – daily features of locals' lockdown exercise

**D. This application requires the removal of mature TPO'ed trees and important hedgerow**

13. The tree report states that the concerns of the Woodland Trust, the inspector and local residents about the ancient and veteran trees have been noted. “Given the Inspector’s endorsement of the RAVEN method for identification of ancient, veteran and notable trees, the list of which trees qualify under these headings remains unchanged.”
14. This is somewhat at odds with the inspector’s report which states:

“It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have not been identified as such in the assessment submitted by the arboricultural consultants to the Appellants, including Tree 3014. That assessment is based upon the in-house identification system of the consultants, known as RAVEN. Criticism is based upon the Ancient Tree Inventory of the Ancient Tree Forum and Natural England standing advice for ancient woodland. It turns, in part, on alleged over-reliance by RAVEN, upon the mere size of the tree in assessing its veteran or ancient status.”
15. As an example in the table on page 6 (of 13) in the tree report, tree 3015 (oak classified by the Woodland Trust as veteran, but not assigned a tree root buffer appropriate to a veteran tree) is explained away as *not veteran* saying it: “qualifies by size and age [268 years old] but lacks sufficient features for descriptor to apply”. The RAVEN methodology to qualify veteran trees is unique to this consultant.
16. Page 4 of the arboriculturist report states “..Tree Preservation Order protects a number of the existing trees on the site. All such trees would be retained”. And the design statement says “in developing the revised layout, we have sought to ensure that the scheme doesn’t require the loss of any protected trees.” However, in the table (line 4) it states that tree under **TPO 6 is to be felled**.
17. The tree report states that “JCS Policy SD9 seeks inter alia to avoid harm to biodiversity through on-site mitigation where possible. In the present case, there is a *theoretical risk of harm to biodiversity from adverse impacts on ancient and other veteran trees and accordingly SD9 is engaged*”. It fails to mention that 40m of important hedgerow is removed and some mature trees have been denied their proper veteran status. It is an actual risk of harm to biodiversity. The application is silent on how this would be avoided, and is therefore **not** compliant with the policy.
18. Policy **HD4 requires all mature trees and hedges to be protected and maintained**. There are two notable ash trees (not yet affected by ash dieback, one under TPO already) and about 40 metres of important hedgerow that will be taken out to facilitate the development. All the mature trees over the badger sett are slated for removal; these form a significant feature in local views and can be clearly seen from the AONB (photos above and below), in contravention of policy **GE12 and GE13**.
19. Recent scientific research notes that hedgerow ash are less vulnerable to ash dieback and are therefore **more important for conservation**, not less (this new scientific research will presumably change the CBC view that ash trees are by definition of limited lifespan).

Theoretical risk:

- a. Gloucester Highways refuse to consider future risk of road injury or death in debating the safety concerns on the roads, saying there has to be evidence within the local area.
- b. The tree officer is happy to consider future risk of infection in trees to validate the fell list associated with the application, despite there being no sign of ash dieback in these trees.

**These two positions are in complete conflict.**

**E. This application increases flood risk and has not addressed surface water flooding, the presence of springs, or sewerage limitations,**

Friends endorse the expert submission of the Cheltenham Flood and Drainage panel, and have not repeated those points here. In general terms, for completeness:

20. Flood risk from surface water run off and constrained sewerage capacity has not been properly addressed despite the evidence of Charlton Court Road residents on the their already inadequate sewerage provision. There were significant concerns over two rejected applications, but this proposal has **further reduced the flood risk management measures** as compared with previous applications.
21. Springs are unmentioned despite previous assertions in front of the planning committee that mitigation would be put in place. As in other areas, this application has **reduced** protection compared with previous attempts, despite residents' concerns and challenges to the desk based assessments of risk. The application fails to meet para 155 of the NPPF.

**F. Development of the site at this level is the definition of unsustainable development. It cannot be accessed other than by car. In a Covid-19 world, that makes it unsafe – for our community and for residents. It is a car only development and runs completely counter to the CBC commitment to become carbon neutral.**

22. The travel plan claims '**excellent walking, cycle routes and public transport**'. However, the distances to local shops have been underestimated by 20-40%, walking times ignore gradient, and the transport plan cites the 2018 version of the bus timetable for the now radically changed local 'route B' service. The travel plan bears no relation to reality or local experience. There are no cycle routes within a mile, and the only access point is steeper than the hardest part of the Tour de France circuit. It is a car only development, completely inaccessible to anyone who is very young, elderly, infirm or disabled in the event of car journeys being impossible (this is not theoretical – it is every ice or snow event, every COVID lockdown). Gross errors in the data underpinning the transport plan include:

- The transport plan states there are 2 local buses, both running every two hours. This is the most recent timetable (Monday to Saturday only) for the only service to Ewens Farm:



Cheltenham, Pittville Street 08:30 11:30 14:30

Ewens Farm, Oakhurst Rise 08:55 11:55 14:55

Cheltenham, Pittville Street 09:27 12:27 15:27

- “Within the local context of the site, this can be assessed against the proximity to local services and amenities, which residents and/or visitors may require access to on a day-to-day basis”. The ‘transport plan’ then cites travel distances and times (Table 3.1). **These are not factual.** The walking distances to the town centre (2.5km), and to Balcarras (1.9km) are at the outer reaches or in excess of DfT maxima.
- Based on google maps, it is 1000m walk from 29 Oakhurst Rise (the entrance to this new development) to Holy Apostles School; not **760m**. St Edwards prep school is 1200m, not **680m**. These are journeys that residents will undertake by car – putting every other conclusion drawn at risk.

If the baseline data is wrong, the conclusions are wrong. Given we have evidenced this from the outset, one has to question why there is so much resistance to putting the right data in. **The transport plan is unsound.**

23. Paras 5.17 and 5.19 of the transport assessment states that **each property will have space for two cars, and one bike**, in contradiction with the design statement “**each dwelling will have adequate space for secure cycle storage commensurate with the anticipated number of occupants within the dwellings**”. This is a car led development, not a sustainable development.
24. A refuse vehicle or emergency vehicle cannot pass a normal sized estate car on the slope of Oakhurst Rise. Highways stated that it was financially not viable for Oakhurst Rise to be re-graded despite the 14% gradient and that cyclists would need to look out for ‘motorists flashing their headlights’ before proceeding down the hill. That position is in clear violation of the highway code, but still the access is deemed ‘technically’ satisfactory and safe. It is not. Legal precedent transfers any future negligence liability to the planning committee – we presume CBC has taken legal advice on this point?
25. **The access route is not safe, particularly for wheelchair users, cyclists and pedestrians.** NPPF para 108b cannot be met, nor can policy SD4(vi / vii). **Safe and suitable access to the site CANNOT be achieved for all users. In a COVID world, that is unacceptable.**
26. The statements from Gloucestershire Highways on junction performance explain the consternation of both planning committee members and the Charlton Kings parish council at the position claimed in previous applications. For the first time the data published reveals that the London Road and Sixways junctions are operating “**well over absolute capacity in all scenarios**” but then says “**the introduction of development traffic does not result in an unacceptable or severe impact**”. **If the roads in Charlton**

**Kings are not adequate, any increase is unacceptable and in breach of national planning policy.** The line being taken is not a viable position.

27. On risk, the transport assessment states “**There has been no personal injury collisions recorded on Oakhurst Rise and therefore nothing to suggest that this highway is unsafe nor anything to suggest that the traffic generated by additional dwellings would make this section of highway unsafe. Overall it is reasonable to conclude that there is not an excessive amount of personal injury collisions on the wider network and those collisions that do occur are spread. Therefore it is reasonable to conclude that the additional traffic generated by the development will not have a material impact on general road safety in the area.**” **Oakhurst Rise is a cul de sac, and the steepest road in the area by some margin. Increasing traffic from zero cars to the traffic (residential and industrial) associated with 43 homes will materially change the risk profile – that is basic statistics.**

#### **G. Concern over S106 conflicts in the current climate**

28. Previous applications argued that anything less than 69 homes could not be made financially viable given the constraints of the site. This reduced application fails to explain how the shortfall will be met by building only 43 properties including 40% affordable housing, but once again no financial viability assessment is provided. Given the site is only viable with significant S106 payments towards schooling and ecological offsets, and still claims affordable housing commitments, all of which are in potential conflict, we would ask that the council challenge these assertions before losing a local asset from public benefit through a successful outline application.

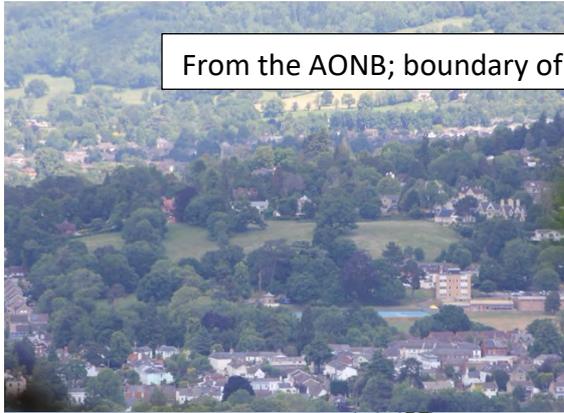
#### **H. Contradictions inherent in the design**

29. The site design statement says ‘**the development of the site enables a significant amount of open green space to be available to the residents**’. Elsewhere the green space is assigned to use by St Edwards School (which would preclude residential access, on child safety grounds). Elsewhere it is assigned as wildflower meadow to offset biodiversity losses elsewhere. Elsewhere it is assigned as badger foraging, or for reptiles. It would be helpful to clarify which land use is going to be primary, given the inherent conflicts between different land users.

#### **I. Visual impact**

30. As presented to the inspector, the site is clearly visible from the local area; photos attached at annex show the view from the CK conservation area including St Mary’s church, from Greenway Lane, on the approach to Cheltenham, and from the Leckhampton AONB. The site design statement claims “**Due to its elevated position, the site can be seen from a few public vantage points around the town, but because of the density of residential development around the site it is not very visible from public vantage points within the town itself or the roads within the immediate vicinity of the site**”. The site is above the build line in Cheltenham therefore stands out, and is clearly visible from a range of entry points into Charlton Kings (photographs below). It is also the framing of the view down the St Mary’s conservation area in Charlton Kings village, the central point of the view

from Charlton Kings Common, and clearly visible from Ashley Road and Greenway Lane.



From the AONB; boundary of CK common



From the A 435



From Charlton Kings common



From Old Bath Road



St Marys Church and the CK conservation area, visually leading to the St Eds meadow and ice house. This view would be dominated by the high rooflines of new development above the existing tree line and proposed 'screening'. The mature trees to the top left of the picture would be removed, to be replaced with houses..

#### J. Loss of local amenity and impact on health inequality

31. At appeal, the inspector noted that “ it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended”. Now policy SD14 has been adopted, we note it states that new development must “cause no unacceptable harm to local amenity, including the amenity of neighbouring occupants” (this being specific to health inequality). It is difficult to consider a stronger personal case than the loss of community care to someone who otherwise is housebound. The turning circle promised at appeal by Mr. Frampton to mitigate this loss of amenity has been removed from the current application. Other aspects of SD14 would also be invoked on development of this site, given the total quietness and dark of the site in its current form.

## Annex 1: Inspector's ruling on harm to Ashley Manor

Policy CP3 of the CBLP and SD8 and SD10 of the JCS together provide that development should protect, conserve, sustain and enhance designated heritage assets and their settings and avoid harm to views into and out of areas of acknowledged importance, including with respect to listed buildings.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) contains a statutory duty to have special regard to the desirability of preserving the setting of listed buildings.

Framework paragraph 193 gives great weight to the conservation of designated heritage assets and paragraphs 195-6 consider harm to heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. National Planning Practice Guidance (PPG) refers to the extent and importance of the setting to the visual relationship between the asset and proposed development, including that views of or from an asset will play an important part. **The PPG also notes that the contribution a setting makes to the significance of an asset is not dependent upon public access.**

It is now trite law<sup>3</sup> that this **less than substantial harm must be accorded considerable weight in the overall planning balance.** However, the judgment in the case of *Shimbles*<sup>4</sup>, with reference also to the earlier *Palmer*<sup>5</sup> case, makes clear that, whilst there is no allowance for any sub-categories of harm within the Framework definition, planning judgement must be exercised. **That is with regard to the level of the less than substantial harm, the great weight accorded to the conservation of the asset and the extent of the public benefits.**

### *Contribution of the Site and the Ice House to the Settings of Listed Buildings*

"The appeal site was historically and remains in the same ownership as Ashley Manor. Although **the land evidently was never part of the managed parkland of the Manor, it had a functional relationship with the Manor as farmland**, and as the location of its Ice House, which survives as an historic feature."

"The present circumstances are that the **Manor and the site are intervisible through the current boundary vegetation** and direct views are available from at least one north-facing window onto the currently mainly open, eastern part of the site, including the tree-covered mound of the Ice House. I observed this for myself, unlike the Inspector dealing merely with the draft allocation Policy HD4. **Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views.**"

"I recognise an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that **the appeal site, with the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets.**"

### *Effect on the Setting of Ashley Manor*

“the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.”

“I recognise that the main front of the Ashley Manor House does not face directly towards the appeal site and that the character of its immediate surroundings has been altered by the addition of modern school buildings, including that closest to the appeal site boundary and north of the Manor itself. Nevertheless, I consider that these effects on the visual relationship between the Grade II\* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building.”

“Having regard to the statutory duty under s66 of the PLBCA, this would be contrary to the protective aims of Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.”

## Annex 2: Inspector's report with respect to biodiversity harm

Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

### *Badgers*

90. The amended development layout proposed would require the removal of the major, central badger sett, Ref BS1, and its replacement with an artificial sett of detailed design for future approval. On the evidence, I am satisfied that this is tried and tested methodology in common use and that the artificial sett could be provided with sufficient chambers to accommodate displaced badgers choosing to use it and constructed to floor and entrance levels high enough to avoid any local flooding.
91. The badger population currently resident and breeding in BS1 would be removed under licence. Badgers are common, subject even to official culling and legislative protection mainly for their welfare and against illegal and cruel persecution. That is not to say that any harm to them would not give rise to a planning objection, just as in the case of any other protected species.
92. Moreover, from the standpoint of CKF, as objectors to the housing scheme as a whole, it is understandable that they submit that the layout ignores the 'avoid-mitigate-compensate' sequence of Framework paragraph 175, in placing built development and access roads so close to BS1 in the first place. However, if the layout is necessary to the development of the site for other reasons, the question becomes whether the mitigation and compensation measures would be effective.
93. In practice, the evidence is that badgers displaced under licence are as likely to remove to outlying setts or create new ones as they are to inhabit the artificial one provided; also, if they inhabit the artificial sett, that they would potentially extend it and add more chambers themselves.
94. Even though this level of compensation is not strictly necessary and direct harm to the protected badgers could be avoided, the remaining badger population would potentially be subject to more human pressure and interference and their present foraging area would be substantially reduced by the presence of the proposed housing. **This implies a reduction in the biodiversity value of the site in respect of its currently resident badger population.**

### *Reptiles*

95. In response to local concern, the Appellants undertook a reptile survey shortly before the Inquiry. This, visual observation and local information provides little evidence of the presence of protected reptiles, other than a family of slowworms and a single grass snake.
96. The survey is criticised by CKF in terms of its seasonal timing, the hours and number of survey visits made and the size of the 'refugia' used to attract and count any reptiles present. The Appellants pointed out that a greater number of smaller 'refugia' were used to increase the likely count and that the number of visits accorded with accepted practice. At the same time, the Appellants agreed, at the Inquiry, that the

timing of the survey **had been sub-optimal in comparison with established guidance**. However, there is no countervailing evidence to indicate a greater presence of reptiles on the site. [Photographs and residents' evidence of slow worms and grass snakes have now been provided to GCER].

“It is further evident that only 14 key wildlife species have been recorded on the site, compared with the 20 required for its consideration of a Key Wildlife Site.” **[A further 6 sedge and wildflower species have been identified in just one morning of study; therefore the site now meets the criteria for consideration as a grassland key wildlife site, in addition to the important hedgerow, protected herptiles and bats, and red list birds.** Sites close to education facilities can be qualify as “key” when they are just short of the criteria – but this site meets the criteria outright. **Oakhurst Rise has reached the threshold to be considered as a Key Wildlife Site.]**

“On balance, I do not consider it likely that protected reptiles are present on the appeal site to justify objection to the amended outline scheme on grounds of harm to such species. I consider that it would be sufficient to require, by planning condition, a full ecological survey and assessment to be submitted, with measures for the protection and management of any protected species found, and its submission to the Council for approval before any development could commence.” **[Protected reptiles have been repeatedly identified during lockdown in some numbers; amphibians are also present** despite statements that the site is not suitable for them’.]

#### *Overall Effect on Biodiversity*

“Overall, **I consider that the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy.** This factor militates to a degree against the appeal proposal.” [This before the most recent ecological records had been provided by Bioscan and residents, and Key Wildlife Status criteria had been met].

### Annex 3: Inspector's report on access

The route to the sole access point to the appeal site is over a network of residential access roads via an established housing area, with much on-street parking in place for much of the time. The cul de sac of Oakhurst Rise, which would be extended to form the on-site access roads to the proposed development, **has a steep gradient.**

I acknowledge that there are no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows.

**However, such technical issues are not the only consideration in the assessment of the suitability of the access arrangements for new development.** In this case, there are genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period, would add to congestion and inconvenience to existing frontage residents.

I am satisfied that such an increase in traffic flow would not have a significant impact on the wider highway network.

However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and *might be at least assisted by the provision of an additional turning head proposed within the site [this has been removed in the new application]*. However, **it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.**

Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.



Ms Emma Pickernell  
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29<sup>th</sup> July 2020

Our ref: SW20/E1986/EPL1

Planning application ref: 20/00683/OUT

Dear Ms Pickernell,

### **Land off Oakhurst Rise, Cheltenham – Review of Submitted Ecological Appraisal**

Following receipt of the ecological appraisal report produced by Aspect Ecology in support of the recently re-submitted planning application for the above site, I have been instructed by the Charlton Kings Friends (CKF) to comment on the likely ecological impacts of the revised scheme.

#### *Biodiversity loss*

You may be familiar with my involvement in this site as part of the 2019 planning appeal at which I presented evidence to the Inquiry that led, in part, to the Inspector's dismissal of the appeal. A particular focus of the Inspectors deliberations regarding ecology, was the assessment I undertook of the net effect of the proposal on biodiversity based on the application of a recognised biodiversity metric<sup>1</sup>. Ultimately the Inspector in his decision found that "*the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy*".

Shortly before the close of the Inquiry, Natural England published a beta version (i.e. consultation draft) of their new metric (Metric 2.0) for review by the industry. Despite reference to this being made in oral evidence at the Inquiry, the applicant's ecologists have once again elected not to apply any form of metric to the conclusions in their current ecological appraisal in respect of the revised scheme. Given the current direction of travel of Government policy (towards mandating use of such metrics to demonstrate delivery of at least 10% 'Net Gain'), and the prominence of this issue at the previous appeal, at best, this seems an oversight.

It has therefore fallen to us, on behalf of CKF, to repeat this exercise for the revised scheme now before you. The attached Figures 1 and 2 show the pre and post construction habitats which I have entered into the new metric. The output from inputting these data into the metric is provided in Tables 1 and 2 below. In summary, based on the Metric 2.0, the development would result in a loss of 10.95 biodiversity units (from 34.32 to 23.37), or a loss of 31.90%. By this measure the revised scheme provides no greater protection of biodiversity on the site than the previous scheme and, as the Inspector found previously, continues to fly in the face of national planning policy and guidance which requires development to not

<sup>1</sup> <https://www.warwickshire.gov.uk/biodiversityoffsetting>

only protect biodiversity but to go further and deliver “net gains for biodiversity”<sup>2</sup>. It is similarly not compliant with local planning policies such as policy SD9 of the Joint Core Strategy<sup>3</sup>, which also require the protection and enhancement of biodiversity as part of development proposals. Relevant parts of this state (emphasis added):

“1. The biodiversity and geological resource of the JCS area will be protected and enhanced in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interests

...

5. Development within locally-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated

6. Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the Local Planning Authority. If harm cannot be mitigated”

#### *Habitat assessment*

As part of my evidence to the Inquiry, reference was made to the Gloucestershire Key Wildlife Sites (KWS) selection criteria. At that time, 14 ‘key species’<sup>4</sup> had been identified in the grassland, close to the threshold of 20 needed for the site to be of sufficient diversity to be designated as KWS. As part of my current appointment by CKF I have revisited the site in 2020 in order to continue to catalogue the ecological interest present, focusing in particular on the floral diversity of the grassland. A further seven species have been recorded in the grassland in 2020 (see table 3) bringing the total to a minimum of 21. On the basis of this, not only has the site recently been formally put forward to the KWS selection panel for designation as a KWS, but, moreover, it is clear that the appellants ecological consultants have once again failed to accurately represent the true ecological value of this site. Indeed, they have now failed in both 2019 and 2020 to record many of the floral species present, and as a direct consequence, have materially undervalued the diversity and therefore value of the grassland. On the facts, the site clearly has significant ecological value and certainly well above the “site context” frame of geographical reference that is suggested by Aspect in their report.

#### *Conclusion*

The revised scheme does not overcome the inescapable fact, as previously found by the appeal inspector, that the site is of higher valued than the appellant’s ecologists claim, and that as a consequence the proposed development would, notwithstanding the revisions made, still result in a demonstrable and significant loss of biodiversity, contrary to a raft of national and local planning policies. It has fallen to CKF, via ourselves, to document the value of the site in an accurate and properly representative manner and to expose omissions made by the appellant’s ecologists and on which flawed assessments have been made. In

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<sup>2</sup> Paragraph 170 of the National Planning Policy Framework

<sup>3</sup> Other polices include NE2 and NE3 of the adopted Local Plan (2006).

<sup>4</sup> As listed on Table H5c of assessment criteria H5.2.

the process of doing so, it has become apparent that the site in fact exceeds the qualification criteria for designation as a Key Wildlife Site, underlining that the impact of the scheme should be assessed in the context of the site being of at least District and more likely County (i.e. Gloucestershire) value for biodiversity. In light of these matters, there can be no other conclusion than significant harm to biodiversity would occur due to the proposed development, and with the backdrop of the previous Inspectors comments, it is clear that this planning application should be refused.

Regards

FOR AND ON BEHALF OF BIOSCAN (UK) LTD



Samuel Watson MCIEEM  
Principal Ecologist

# Key

-  Site boundary
-  Semi-improved, neutral grassland - 3.42ha
-  Dense, continuous scrub - 0.21ha
-  Scattered scrub 0.08ha
-  Hedgerows - 0.58ha
-  Pond - 0.003ha
-  Wall - 0.004ha

Base mapping is from Aspect - Habitats and Ecological Features, drawing ref: 5487/ECO2 dated April 2020



DO NOT SCALE

<b>Title</b>		
Existing habitats		
<b>Project</b>	<b>Client</b>	
Land off Oakhurst Rise	Charton Kings Friends	
<b>Drawing No.</b>	<b>Revision</b>	<b>Project No.</b>
Figure 1	A	E1986
<b>Drawn</b>	<b>Checked</b>	<b>Date</b>
SW	SW	July 2020

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# Key

-  Site boundary
-  Neutral grassland - 2.16ha
-  Development - 1.29ha
-  Scrub/young tree planting - 0.49ha
-  Retained trees - 0.35ha



DO NOT SCALE

**Title**  
Post development habitats

<b>Project</b>	<b>Client</b>
Land off Oakhurst Rise	Charlton Kings Friends

<b>Drawing No.</b>	<b>Revision</b>	<b>Project No.</b>
Figure 2	A	E1986

<b>Drawn</b>	<b>Checked</b>	<b>Date</b>
SW	SW	July 2020

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Table 1 - Pre-development baseline

Ref	Habitats and areas			Habitat distinctiveness		Habitat condition		Ecological connectivity			Strategic significance			Suggested action to address habitat losses	Ecological baseline Total habitat units
	Broad Habitat	Habitat type	Area (hectares)	Distinctiveness	Score	Condition	Score	Ecological connectivity	Connectivity	Connectivity multiplier	Strategic significance	Strategic significance	Strategic position multiplier		
1	Grassland	Grassland - Other neutral grassland	3.42	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	27.36
2	Heathland and shrub	Heathland and shrub - Bramble scrub	0.21	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	1.68
3	Woodland and forest	Woodland and forest - Other woodland; mixed	0.08	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	0.64
4	Woodland and forest	Woodland and forest - Other woodland; broadleaved	0.58	Medium	4	Moderate	2	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	Same broad habitat or a higher distinctiveness habitat required	4.64
<b>Total site area ha</b>			<b>4.29</b>											<b>Total Site baseline</b>	<b>34.32</b>

Table 2 – Post-development baseline

Post development/ post intervention habitats																	
Proposed habitat	Area (hectares)	Distinctiveness	Score	Condition	Score	Ecological connectivity			Strategic significance			Temporal multiplier		Difficulty multipliers		Habitat units delivered	
						Ecological connectivity	Connectivity	Connectivity multiplier	Strategic significance	Strategic significance	Strategic position multiplier	Time to target condition /years	Time to target multiplier	Difficulty of creation category	Difficulty of creation multiplier		
Grassland - Other neutral grassland	2.16	Medium	4	Good	3	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	15	0.586	Low	1	15.19	
Urban - Suburban/ mosaic of developed/ natural surface	1.29	Low	2	Good	3	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	5	0.837	Low	1	6.48	
Woodland and forest - Other woodland; Young Trees planted	0.49	Medium	4	Poor	1	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	25	0.410	Low	1	0.80	
Woodland and forest - Other woodland; broadleaved	0.35	Medium	4	Good	3	Low	Unconnected habitat	1	Area/compensation not in local strategy/ no local strategy	Low Strategic Significance	1	32+	0.320	Medium	0.67	0.90	
<b>Totals</b>	<b>4.29</b>											<b>Total Units</b>	<b>23.37</b>				

Table 3 – Cumulative KWS species list

Scientific name	Common name
<b>Species recorded in 2019</b>	
<i>Carex spicata</i>	Spiked sedge
<i>Centaurea nigra</i>	Lesser knapweed
<i>Conopodium majus</i>	Pignut
<i>Galium verum</i>	Lady's bedstraw
<i>Lathyrus pratensis</i>	Meadow vetchling
<i>Leontodon hispidus</i>	Rough hawkbit
<i>Leucanthemum vulgare</i>	Oxeye daisy
<i>Lotus corniculatus</i>	Common bird's-foot-trefoil
<i>Lotus pedunculatus</i>	Greater birds-foot-trefoil
<i>Luzula campestris</i>	Field wood-rush
<i>Potentilla sterilis</i>	Barren strawberry
<i>Primula veris</i>	Cowslip
<i>Tragopogon pratense</i>	Goat's beard
<i>Trisetum flavescens</i>	Yellow oat-grass
<b>Species recorded in 2020</b>	
<i>Carex flacca</i>	Glaucous sedge
<i>Hyacinthoides non-scripta</i>	Bluebell
<i>Hypochaeris radicata</i>	Cats-ear
<i>Primula vulgaris</i>	Primrose
<i>Ranunculus bulbosus</i>	Bulbous buttercup
<i>Rhinanthus minor</i>	Yellow rattle
<i>Viola riviniana</i>	Common dog violet

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## CHELTENHAM FLOOD AND DRAINAGE PANEL (previously Charlton Kings Flood Action Group)

### COMMENTS

It is very disappointing to note that similar to earlier FRAs for this site, this latest FRA - "Revision M"- is still inadequate, unsafe, and non-compliant with national policy and guidelines.

We urge the Council to take into consideration all the very material and valid neighbourhood concerns voiced about flood risks relating to this development site.

We cannot support approval of this proposal at this stage of the process because the FRA is not yet fit for purpose.

The plan has not demonstrated satisfactorily that the drainage and SuDS structure proposed conforms with legislation and DEFRA standards and consequently - until it does so - it should be deemed unsafe to adjacent neighbouring properties and downstream communities.

The Water Management Act requires the planning proposal to be declined if the FRA and drainage plans are not acceptable.

### KEY FRA PLAN AND DRAINAGE POLICY DEFECTS

#### OVERLAND FLOWS NOT PROPERLY CONSIDERED

As in previous submissions, overland Flows have been completely ignored in the calculations made by the FRA authors.

- No allowance has been made for the control and attenuation of overland surface water flows onto the site's built drainage (the "positively drained" area) from the slopes above the development onto the respective roads and pavements - or for water flowing from the green spaces of the site onto the built area that is positively drained.
- This omission is in breach of the Non Statutory Technical Standards for Sustainable Drainage which requires under Paragraph 3.4 that any drainage proposal must accommodate surface water flows from the entirety of the site, including both permeable and impermeable areas so as to not increase flood risk to neighbours or residents and it also requires that any drainage proposal must consider overland flows on to the site.
- Because of this omission, the pre-development run off measures applied are understated and unreliable and this also invalidates the model calculations that are used to select the safe level of attenuation storage capacity.
- To calculate run off the consultants have only input into their model the surface area covered by the "impermeable" built area of the development which they state is 7,500 square meters.
- It is unclear how the consultants have arrived at this figure for the drained surface area.
- The FRA is misleading when it states in para 4.3 of the FRA that the remaining area of the development site will be made of permeable soft landscaping and planting . The site is not permeable and no allowance has been made by the consultants for this in their calculations.

#### STORAGE CAPACITY PLAN IS INADEQUATE

- The omission highlighted above means that the planned attenuation storage tanks capacity will not be adequate for the site drainage requirement in storm conditions, and are also not yet designed to deliver capacity levels that allow a proper statutory climate change allowance to be applied to the entire development site surface water running onto, falling onto, and draining from the site.
- The model used for calculating surface water run-off and storage needs also does not allow the input of any adjustment that allows the slope of the site to be taken in to consideration. This is a known weakness of this model.
- Because this site is a steeply sloping site, the velocity of run off is an important factor to be considered when considering flood risk safety. It is important that this velocity is properly considered in the design of the drainage and storage capacity to ensure the control mechanisms are not overwhelmed and to make sure that neighbouring properties are not endangered and put at increased risk of flooding post development.

The failure to adjust the model outcomes and storage capacity to correct for the sloping site, run off velocity, and impermeability of the slope geology represents a serious and potentially dangerous weakness of the current design and drainage strategy.

### CLIMATE CHANGE FACTOR CONSIDERATIONS

The FRA recommends an inadequate storage capacity for run off; the storage tank capacity currently proposed for the site is very unlikely to be adequate to accommodate climate change factors over the 100 year lifetime of the project .

- The developer has not disclosed any justification to reduce the lifetime of this development to a shorter period - therefore the lifetime of this residential development must be considered to be 100 years.
- This development is located within the Severn River Basin. This is highly relevant because we have a responsibility not only to local residents but to all residents living downstream in the Severn River basin catchment area to reduce the risk of flooding to their properties where possible.
- Climate Change Allowances have recently been updated by the Environment Agency in March 2020
- If we want to protect neighbouring and downstream properties from the risk of flooding for the 90th percentile of the current rainfall projections for the next 100 years, then prudence requires that a 70% climate change allowance should be applied to this development. This 70% allowance is the current total percentage climate change anticipated by DEFRA for the years 2070 to 2015 for the Severn River Basin.
- This allowance recommendation is especially important given the very specific characteristics of this site and its neighbourhood. Because this development is located on a sloping impermeable site neighbours located adjacent to, below, and in proximity to this development are at increased risk of flooding as the storm frequency and intensity increases with Climate Change. In these conditions the velocity of surface water flowing can be very rapid such that any SuDS structure with inadequate storage capacity or drainage infrastructure is highly likely to be overwhelmed.
- The SUDS agency CIRIA acknowledged that the model used to calculate run off does not make any allowances for slopes. Slopes generate increased flood risk in storm conditions because the velocity of run off is accelerated and no allowance has yet been made for this model shortcoming in the plan.

### EXCEEDENCE MANAGEMENT

The FRA and Drainage Plans do not show how surface water flood flows will be safely directed off the site in the case of Capacity Exceedence or SuDS failure. It is a fundamental requirement of sound SuDs design that Exceedence routes to channel surface water safely off a site must be shown on the drainage plan.

- There are no contingency plans disclosed in the FRA to manage water safely away from neighbouring properties in the event of the blockage or failure of the system or storage structures - this dangerous omission is not compliant with SuDS Policy.
- Exceedence (overflow) flood water management safely off the development is not disclosed - an essential Suds component and basic requirement for all sustainable drainage models.
- Because no Exceedence strategy has been considered or disclosed, neighbouring properties to the development site residing in and on Oakhurst Rise, Charlton Ct Road, and properties "downhill" from the development site are all potentially being put at risk of increased surface water flooding in storm conditions.
- Neighbours need to know where this overflow surface water will be discharged from the development site so that they can assess whether the proposal is safe. Since the plans do not disclose this they are clearly not yet fit for purpose and should be rejected as it is important this matter is clearly disclosed and agreed to be safe and acceptable before allowing any plans to proceed.

### POTENTIAL RISKS TO NEIGHBOURS, AND THE SCHOOL,

The omission of an Exceedence management strategy is a serious shortcoming and very material as the plan does not disclose what the contingency plans are to make sure that the adjacent (downhill) property. This omission is particularly concerning given that a prep school is located immediately below the planned location for the SuDs structure.

- We note that the plans include the building of a pond at the foot of the development site on the shared open boundary with St Edwards School it is not clear how any storm overflow from this pond (for whatever reason) will be channelled safely away from the school grounds.
- We also note that the SuDs flood control and storage units are also proposed to be situated just above the boundary adjacent to the St Edwards School grounds.
- In the event that the pond, and or the SUDS storage capacity fails to accommodate storm water flows due to insufficient capacity, or a failure of the SUDS infrastructure controls, the flood waters may suddenly flow directly downhill onto and over the St Edwards School property and if this flood water is travelling at speed the personal safety of children and staff could be significantly compromised and the property of the school may also be very vulnerable to sudden inundation.
- Given these tangible potential risks we would strongly recommend that the School Trustees/Governors who are supportive of the development consider appointing their own expert flood risk consultant to advise them as to the safety of the drainage scheme proposed for the development above them to satisfy themselves that the plans are robust and will not endanger the school children or community.
- The point that we make below regarding maintenance of this installation is also very relevant to the school's risk assessment process.

### NO DETAILS OF SUDS MAINTENANCE PLANS

No details have been provided about who will maintain and pay for the repair and upkeep of the proposed SUDS drainage structure, tanks, and flow control equipment over the expected 100-year lifetime of the development.

- The plan, similar to all the previous FRAs for this site, is completely silent on specifying the planned lifetime of the structure, another breach of planning requirements and policy for SuDs.
- The LLFA in their comments on this plan has explicitly stated that it is up to the Council to deal with who will be responsible for the future safe management of the proposed SuDs systems.
- Maintenance requirements will include regular checking, service and clearing of the storage tanks of silt and settlement that would otherwise reduce storage capacity. It also requires regular servicing of all related connections keeping them free from blocking and silting up to ensure all the devices installed can reliably manage and control drainage and flow velocity.
- The maintenance costs provisions, resources and ongoing responsibilities for the safe maintenance of storage structures are not disclosed in the FRA or the documents accompanying the application. The costs of this maintenance over the lifetime of the development will be material.
- Before approving a plan like this the community deserves to have absolute clarity as to whether it is intended that the Cheltenham Council (and its taxpayers) will take on responsibility for these currently unbudgeted and unfunded costs. We should also know what those costs will be so that a properly informed decision can be made about how these will be funded.
- Given that the school is particularly exposed to potentially elevated surface water flood risk if these structures proposed are not well maintained, the Trustees of the School who support this development should share our concern that this matter be resolved before plans are approved and progressed. This is especially relevant because a subsequent failure of the structure arising from maintenance shortcomings might expose the school to considerable flood risk, dangers to its students and staff safety, and potentially significant flood rebuilding costs.

### LOCAL FLOOD EVENT HISTORY

The LLFA and planning function do not appear in the past to have properly properly considered the impact of this development on the neighbouring areas that have experienced flooding in the past .

The developer states in Para 5.14 The CBC has shown that 3 incidents of flooding from sewers have occurred in the vicinity of the site when looking at the postal area GL52 6. It is assumed that due to the low number of occurrences the site is at low risk of sewer flooding.

- Please can the LLFA or Council advise if this is an acceptable average, how many people and households were affected by these "incidents" and how and who decides that this evidence demonstrates a low risk of flooding and if the LLFA have records of what happened? The council must reject the notion that this data can be used in any way to justify the conclusion drawn that flood risk is low?
- The Letter from 12 Haywards Road also describes in significant detail the history of flood events in this area that needs to be taken into consideration.

### FAULTY DRAINAGE PLAN SPECIFICATIONS

Highlighting how poorly drafted these plans are, the drainage strategy mapped out in the Document titled Drawing 1 - Drainage Strategy dated 28 April 2020 the

consultants have planned a surface water drainage pipeline under Road 2 which will require water to "drain" uphill.

- The drainage plan shows surface water draining uphill under road 2 which has a particularly steep gradient of up to 8%. The surface water drainage pipe also appears to signal run off moving in the opposite direction to the exceedence flow path. Ref drainage emanating from map reference point CL.111.29,IL109.69.
- Map reference point CL. 106.90, IL 102.32 shows the location of the planned hydrobrake control. If this control fails or is bypassed (e.g. if it has a blockage or silts up) the plan shows no detail of how the flood water will be safely drained away from the site without inundating the school and neighbouring properties located downhill from the development site.

### SEVERN TRENT WATER (STW) LETTER ATTACHED TO FRA

Where will the Surface water go? A STW surface water sewer, land drainage or a watercourse?

- The Developer's consultant is misreporting the validity and the position of Severn Trent Water (STW) and their willingness to accept these new surface water flows into their drainage infrastructure. The STW letter concerning this proposed development is out of date and invalid as the validity of the STW advice expired in 2017.
- Furthermore, the STW letter was conditioned that all surface water from the development had to be drained in a sustainable way to the nearest watercourse or "land drainage channel"- and this means NOT to their sewerage network.
- There was no explicit acceptance of surface water flows to their structures. So, in fact the STW has not yet accepted in any way the drainage of the surface water run off to their sewerage infrastructure and they have not yet confirmed whether or not their drains have the capacity to accept these additional flows.
- In the STW letter of 28 November 2016 the section dealing with Surface Water Drainage states very explicitly that STW expect all surface water from the development to be drained in a sustainable way to the nearest watercourse or land drainage channel.
- STW states in Para 3.5 of their code of practice that they are not responsible for maintaining road gullies, highway drains, land drainage, ground water, watercourses, culverted watercourses or rivers.
- STW's letter states - In this connection the LLFA is accountable for ensuring that a climate factor is applied to the full run off of water from the site.
- As the developer has not yet properly calculated or estimated the quantity run off onto the entire site from overland flows the LLFA cannot be in a position to validate the developer's claim that pre development run off rate had been properly calculated as they claim.
- And, because they do not have a reliable or sensible starting point to calculate post development surface water run off rates, it follows they also do not yet have a reliable climate change factor estimate to be applied to control flows from the site.

### STW SURFACE WATER SEWER CONNECTION

If the water is discharged to a STW sewer, which sewer will be used?

- The STW Letter also refers to the location of Surface Water Sewers in the vicinity. The Developer's plan states that they intend to connect the surface water run off through one pipe to a Severn Trent Structure that on their drainage drawing appears to plan to connect the surface water run off drains to a structure titled "EXTG STW SMH S096213402".

- The Severn Trent Letter refers to their records showing sewers running along Oakhurst Rise MH ref S096213601 that might be used (by the developer) as a last resort.
- As the development plan and the Severn Trent Water letter have two completely different references for surface water drainage sewers it is clearly not possible to state with any certainty that the STW will accept the connection to a different referenced structure to the one referred to in their letter even as a last resort.

### STW SEWER CAPACITY IMPACT

Surface Water Sewer Capacity - It is also not clear whether or not the STW installation that the developer wants to connect to has the capacity for their new additional flows.

- The parish council and another respondent to this plan residing at 4 Charlton Court Road have told the planning function that Severn Trent confirmed the sewer capacity was already fully utilized in 1971. And that no capacity increase has been put in place since then. This feedback further undermines the developer's suggestion that the drainage infrastructure is adequate or that STW have agreed to any use of their drainage assets for this development. The letter from 4 Charlton Court Road raises a number of extremely detailed concerns about the capacity of the local drainage infrastructure to cope with the additional volumes pressure created by this development.
- Letters from 19 Oak Avenue and 21 Charlton Court road also highlight the lack of consideration of this very important matter.
- We are disappointed that the LLFA have not looked at this proposal against the backdrop of the historic flood database and this vital local knowledge. The drainage capacity issue for this development and also the development from Cromwell Rise must be reviewed together to ensure that a clear view can be taken as to whether the infrastructure can accommodate these additional flows.

### LLFA ROLE IN PLANNING MEETING

It is not clear why the LLFA has not raised or responded to previous and current flood risk concerns voiced about this development given the well-known flood issues associated with this site.

- The last occasion when a development plan for this site was scrutinized the flood risks were discussed at some length by Councillors but the LLFA did not attend the planning meeting - the Councillors were unable to hear how the LLFA got comfortable with the plans presented back then and also were unable to hear how the LLFA intended to address the community concerns that they raised.
- Inexplicably, despite the concerns flagged in numerous flood risk comments on the plan, and discussed in that meeting (which remained unanswered) the council did not cite flood risk as a reason for declining the proposal. It now has an opportunity to correct this oversight.
- If the Council now approve the plan unchanged then in the event that subsequent surface water flooding at this location causes loss, injury or damage to people and or neighbouring properties it will be difficult for the LLFA or the Council to deny liability given that the flaws in the current flood risk management plans have been voiced repeatedly and are now so very well documented.

### LLFA COMMENTS ON THIS PLAN VERSION

How should the public and the council interpret the LLFA's latest comments on the developer's plans?

- The LLFA choice of words is non-committal and provides no evidence to substantiate their comments.
- In this plan the LLFA statement says "...Information supplied .... adequately describes a feasible strategy for the management of surface water on and from the development site".
- By calling the plan "feasible" the LLFA asserts that they believe the developer might be able to construct to this design - nothing more and nothing less.
- The LLFA does not state whether or not this design is fully compliant with public policy or planning guidelines, or whether the calculations have been checked and are reliable, or that the models used are up to date and fit for purpose, or that the design is SuDs compliant as outlined in CIRIA, or that the planned structure is safe to neighbours, or that if the design fails overflow water management will still be safe, or that the drainage infrastructure has capacity to cope with increased volumes and more surface water flooding velocity. The plan has not described any safe exceedence management strategy. The LLFA comments also do not provide any warranty or confidence that immediate neighbours living adjacent to or close to the development will not be exposed to the potential dangers arising from increased surface water flooding risk if this plan is progressed without significant amendment.
- All points that that the community have challenged in this process and previous reviews of plans for this site that to this day remain unanswered by the LLFA or the CBC planning function.
- The LLFA then state that the strategy described will require further detail before development commences including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development.

If the committee follows the LLFA advice and allows deferring settlement of this matter into the future for post approval discussions this allows these matters to be decided later behind closed doors . This is undemocratic and carries the risk that the existing already inadequate controls and safeguards may be further diluted by the developer and agreed to by the LLFA beyond the scrutiny of the public or planning committee.

### CONCLUSION AND RECOMMENDATION

Our panel is not opposed to sustainable development or house building in Cheltenham, we support the development of good quality homes to meet our community's needs and our growing population.

We have no doubt that a sound, sustainable, and safe FRA and Drainage strategy can be presented and put in place for this development site. The plan to hand fails to do this.

All that is required is for the developer's consultants to follow national SuDs policy, and use best practice to present a sound plan and build a robust flood control infrastructure which takes proper account of the very specific characteristics of this site and the impact of this proposed development design on its neighbours. It is also essential that , if the neighbourhood drainage infrastructure is not upgraded, any development for this site is scaled to be of a size that does not overwhelm the existing drainage infrastructure.

Because the current plan is not yet fit for purpose, we recommend that Councillors refuse any further progress of this application until an FRA and drainage plan is presented that:

- complies with national, county and council policy and the spirit of that policy,
- applies sensible and site-appropriate surface area details for the calculation of all surface water run-off and drainage storage capacity
- uses appropriate EA recommended model methodology,
- has storage tank volume capacity adequate to hold a 90%th percentile scenario level of stormwater which applies a 70% climate change factor to ensure to a high degree of confidence that the school and neighbouring properties will not be inundated in storm conditions
- provides betterment to relieve the town's overburdened and aging drainage infrastructure ,
- clarifies and documents safe exceedence management arrangements to prevent accidents happening at the prep school downhill from the site and to other properties adjacent or in the neighbourhood of the development ,
- calculates run off for the whole impermeable area of the site including overland flows into the site from uphill,
- complies with SUDs best practice as per CIRIA,
- clarifies ownership and management and demonstrates robust - ring fenced - funding arrangements for the SuDs structure post development for the lifetime of the development (100years at least)
- complies with latest SWT requirements who must confirm they have the capacity to manage any resultant additional flows to their sewers if there is no alternative available.
- demonstrates convincingly that run off flows from the development site do not put neighbours or other areas at increased risk of flooding.

**Cheltenham Borough Council planning application:**

**20/00682/OUT Land Adjacent To Oakhurst Rise**

REF: Aspect Ecology - Ecological Appraisal April 2020 : Confidential Badger Appendix  
5487/3

**Badger Trust Gloucestershire**



**General Background Information**

NPPF – Planning Policy

The likelihood of disturbing a badger sett, or adversely affecting badgers foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions.

The loss of foraging habitat could also be considered as cruel treatment of badgers. Main roads may prevent badgers from accessing their setts. Severance of territory and pathways may also result in road casualties and potential traffic accidents.

Legal Protection Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it a criminal offence to kill, injure or take badgers or to interfere with a badger sett.

Under the Act it is a criminal offence to:

*Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof*

*Intentionally or recklessly disturb a badger when occupying a badger sett*

**From the Cheltenham Plan 2011 – 2031**

*Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the Local Planning Authority*

and 2<sup>nd</sup> Review of Local Plan

*Policy NE1 relates to habitats and legally protected species and states: 'Objective O18: Development which would materially harm, either directly or indirectly, a site supporting any legally protected species will not be permitted unless safeguarding*

*measures can be provided through conditions or planning obligations to secure its protection.'*

### **Site visit 08.05.2020**

Badger Trust Gloucestershire made a further visit to this site 8<sup>th</sup> May 2020 to refresh our previous appraisal at the request of local residents during summer 2017. At this time badger activity on site in the form of well used paths, snuffle holes and one active and one partly disused sett were identified. Our comments at the time are reproduced below (Appendix 1).

The site continues to display clear evidence of regular use by badgers foraging across the area of pasture with paths and snuffle holes. There is evidence of frequently used badger paths crossing the site and entering gardens of adjoining properties. The main sett is located at the northern end of Hedge 1 shown on the plans included in the Ecological Appraisal produced by Aspect Ecology and has over 20 entrances with c.15 being in current use as shown by tracks and bedding in the vicinity. During this brief visit we weren't able to confirm whether the partially disused sett under the oak in the remains of the old Ice House is showing any evidence of occupation by fox or badger.

The designation of the badger sett as a main sett is based both on the number of entrances and the level of activity, which in this case indicates that a large badger social group (clan) are present.

It should be expected that badgers from the clan living in this sett will maintain a territory that would include not only the land within the site boundary but also gardens and open spaces beyond its borders. Removal of c.40% of Hedge 1 will necessitate relocation of this main sett which should only be contemplated when other options for mitigation have been exhausted. Even the best designed artificial setts have c.60% success in attracting badgers to use them

Loss of habitat and disturbance to this site is likely to cause badgers to increasingly forage across gardens and also dig subsidiary setts in gardens causing damage and potentially causing financial loss to householders if badger excavations undermine structures and licenced closure of setts and underpinning of buildings is necessary.

Increased road traffic, even at low speeds will result in more casualties not only to badgers but to other protected species such as slow worms, which were recorded particularly in the North West quadrant of the site.

As before, Badger Trust Gloucestershire is duty bound to state that badgers have statutory protection under the Protection of Badgers Act, 1992 and that any unlicensed disturbance or harm to them or to their setts constitutes a criminal offence under the Act. We note with concern that the ecological report supplied makes very little mention of badgers despite their clear presence on site. We also note that the main appendix referring to badgers is not available except 'on application'. We regard this as a serious attempt to minimise the presence of a major protected species on site.

We recognise that badger mitigation strategies are not only mandatory but also very expensive and make a general observation based on scrutiny of many planning applications that developers often wish to avoid these costs. Badger Trust Gloucestershire is therefore not satisfied that sufficient attention has been paid to presence of badgers or to any mitigation strategy should consent be granted for this application.

Furthermore, the Trust disputes the continual references in this ecological report to the land

in question being 'poor quality grassland' and 'semi-improved'. The perceived 'quality' of this land is a direct result of enduring neglect by the current landowner, not any inherent deficiency in the land itself.

In the early stages of abandonment it will be the case that a few plant species will begin to dominate. The ecological survey attempts to present this fact as an 'inherent' deficiency in terms of biodiversity but in fact, over time, the biodiversity will improve as the complex processes of nature gain a better hold of the site and begin to repair and restore it from the state it was left in by previous owners. Badgers themselves are one component of this biodiversity improvement as they spread seeds from various plants and nuts in their diet.

Ironically, the habit of developers and landowners to deliberately neglect land to create the impression of lack of quality tends to have the reverse effect in terms of biodiversity. As soon as neglect begins the process biodiversity repair also begins. This unintended re-wilding often creates more problems for the developer than it solves.

This land is not 'semi-improved' it is simply neglected as a deliberate choice on the part of the current owner. The consideration for the planning committee is not what condition the land is in now but what condition it could or should be in, now or in the future. The land has many potential uses and could be maintained and enhanced in many ways for the benefit and amenity of the local community and environment through a more proactive management effort. It does not have to remain in its current state of neglect and building houses is clearly not 'the only option' for its future. A better use, given the Council's obligations to the Climate Crisis and carbon capture might be to use this site to plant trees.

What is clear is that it is inappropriate for an applicant to deliberately attempt to lower the quality of a piece of land by neglect and then claim that this is somehow a reason why it should be developed for profit in the form of housing. We would hope decision makers are not taken in by this practice.

We have read the Confidential badger appendix 5487/3 and note that the presence of a well developed and long established badger colony is not disputed by the developer's ecologists. We are concerned by statement 4.2.4 "*Badger setts BS2, BS3, and BS4 are inactive and therefore regardless of whether they are lost or retained are not considered further in terms of disturbance to a sett.*" This betrays a lack of understanding of how badgers occupy setts over time or use apparently 'disused' setts in certain circumstance i.e. as alternate locations in times of disturbance or as clan numbers increase. It generally takes only a few hours digging for badgers to reoccupy and ready an old sett for new use.

We are also concerned that badger setts BS2, BS1 and BS5 may be connected by long tunnels. This would have to be established by a Ground Penetrating Radar (GPR) survey. We note again the attempt to minimize the significance of the wildlife presence on this site and the impact of any future development will have on it. The current infrastructure of all the setts on this site is part of a 'cohesive whole' in terms of how it is used by the badgers present. The significance of any one part of it cannot be separated or 'picked away' from the totality of it. Any disturbance here will likely cause complete disruption to the badger colony currently on site and to the surrounding colonies. It may well be the case that a modified reoccupation of the site by badgers may occur in the future but this would be much reduced in scope

In conclusion Badger Trust Gloucestershire objects to this proposed development on the grounds of loss of habitat generally and because it will cause material harm to badgers (*Meles meles*) as a protected species (Protection of Badgers Act, 1992). The density of housing is too high to retain any meaningful amount of wildlife or local amenity for residents.

The dislocation and removal of badgers will indubitably cause difficulties and expense for neighbouring properties. We note also that there is sufficient housing land elsewhere in better, more appropriate and more sustainable locations to fulfil the council's housing obligations and that in these times of pandemic the availability of open space and amenity for the public has become a significant public concern. This means the 2006 Natural Environment and Rural Communities Act is a material consideration in determining this application.

We are also concerned that this application, if successful, will be part of a phased development of the whole site once the principle of development has been established. That is to say that the diminution of its ecological and amenity value will be used in future applications as an excuse to cover the whole site in housing.

*Julie Douglass* - Field Officer  
*Peter Martin* - Chairman

### **Badger Trust Gloucestershire**



### **Appendix 1**

#### **17/00710/OUT Outline application for residential development of up to 100 dwellings including access with all other matters reserved for future consideration. Land Adjacent To Oakhurst Rise Cheltenham Gloucestershire**

The Badger Trust (Glos) has recently been consulted on this application.

#### **General Background Information**

NPPF – Planning Policy

The likelihood of disturbing a badger sett, or adversely affecting badgers foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions.

The loss of foraging habitat could also be considered as cruel treatment of badgers. Main roads may prevent badgers from accessing their setts. Severance of territory and pathways may also result in road casualties and potential traffic accidents.

Legal Protection Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it a criminal offence to kill, injure or take badgers or to interfere with a badger sett.

Under the Act it is a criminal offence to:

- Intentionally or recklessly damage, destroy or obstruct access to a badger sett or any part thereof
- Intentionally or recklessly disturb a badger when occupying a badger sett **Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire Comments on the preliminary survey works on site** We are concerned to hear from local residents that intrusive surveys were carried out on site in January and February 2017. These involved the use of heavy plant and equipment in close proximity to the badger sett and appear to have been without the necessary statutory consents in place to do so. We understand the intrusive survey works close to the main sett were we reported to Gloucestershire Constabulary and Natural England. The main sett was not damaged and remains active. We are now monitoring this sett and treating it as one at high risk of further disturbance. The Application Application number 17/00710/OUT provided an ecological appraisal prepared by All Ecology in September 2016. This appraisal identified the presence of the large main sett on the site and we note it mentions a confidential badger survey was prepared, we have not seen details of this. The loss of foraging habitat for a local group of badgers may cause knock-on issues for nearby residents with changes in badger activity. So it is therefore important to check thoroughly to see how badgers may be displaced by any development as extensive as outlined in this application. We note that All Ecology propose to close the main sett and rehouse the badgers elsewhere on site. Proposing to close a longstanding main sett and remove a major part of the badger group's foraging territory at the same time will inevitably disturb the badgers at this site to the extent that they could not realistically continue to inhabit the site.

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Artificial setts are rarely successful. Dispersal of badgers will inevitably result in them creating new setts elsewhere, which could well include in residential gardens and on commercial/public properties.

This application illustrates the relocation of badgers is an expensive and time consuming process. It can also have the potential to depreciate the value of surrounding properties. As a result of this Badger Trust Gloucestershire recommends that, should consent be granted, it must be on condition that a bond be given or some kind of indemnity insurance be taken out by the applicant to cover the cost of any appropriate mitigation works relating to badgers incurred by any third party within one mile of the site as a result of displacement, for a period of at least 5 years from completion of the development or until it can be proven from regular site surveys that the badger group are again settled.

Development on this site would cause a comprehensive loss of foraging territory and the badgers will be forced to forage further afield crossing roadways as they do so. This would bring them into conflict with vehicles in the vicinity and presents both a danger to the badgers and to the local residents driving at night.

The loss of trees on site will also be a further loss of the vital habitat for the badgers forcing a change in their behaviour as they search for new green spaces and wildlife corridors. It is very difficult to predict these changes particularly when All Ecology is only providing advice based on an outline site development plan. Site density, flood alleviation schemes, traffic calming measures and protection of the historical features may significantly squeeze the areas available for the badgers.

Access to drinking water at the pond at the northern point of the site is also critical for badgers and must be maintained at all times, if consent granted. Attention must also be given to contamination of the pond during construction and mitigation put in place to prevent it.

This site is highly unusual as it appears to have been undisturbed by development for several hundred years. Badger setts have been known to be centuries old and this sett could easily be one of them. In which case we would support the creation of an SSSI to protect this sett as a significant and historic feature of the landscape.

Any development on the site must allow clear and appropriately sized wildlife corridors to allow both continuity of occupation of existing wildlife and transit from this area to new foraging areas. This would apply to all mammal species such as hedgehogs, foxes as well as badgers and other mustelid species.

Badger Trust Gloucestershire objects in principle to this application as the inherent loss of wildlife habitat and 'green space' cannot be easily or economically mitigated whatever consent is given, and that best course of action would be to refuse consent.

### **Good Practice during construction (if consent is granted)**

We would recommend a Method Statement for the construction work would include the following:

Create an appropriate buffer between the works and the sett. Current standing advice does not stipulate distances from occupied setts at which licensing is or is not likely to be required, but it indicates that one should be satisfied that an activity is not likely to disturb a badger before carrying it out. To assist in that decision making process, reference is often made by developers to former guidance issued by English Nature (now Natural England) which indicated that licensing was likely to be necessary, or should be considered, when using heavy machinery within 30m of a badger sett, lighter machinery (generally wheeled vehicles) within 20m, and for light work such as hand digging or scrub clearance within 10m.

Security fencing should be kept away from the setts so access for the badgers is not impeded, any works fencing should not impede the entrance/exit points of the badger or their primary paths at any time. Badger access points must be created under both temporary and permanent fencing.

The badgers will be using this site for regular access to the pond, so it is important that any buffer or security fences enable this access to continue any works on site.

Implement site speed limits/reduce traffic flow in the vicinity of the sett, if appropriate.

Badger sett & path advice to be included in the construction method statement including clear instructions regarding the protection of the badger setts to the on-site contractors. Good working practices need to be employed by the developers and contractors.

Materials and chemicals should be stored well away from the setts (over 30m) and water courses and any site compounds should be fenced to ensure that no badger can obtain access.

Should any trenches need to be left open overnight a means of escape should be provided such as a suitably placed plank of wood.

Use of heavy machinery within 30m of the badger sett should be kept to a minimum (licence may be required) Machinery should not be left idling within the vicinity of the sett to minimise vibration and exposure to exhaust fumes.

No night work (badgers are nocturnal).

### **Long Term important considerations for this and any subsequent planning amendments**

#### *Boundary treatment*

Access for badgers from setts into surrounding land and to the water courses should not be blocked or restricted in any way. If any new fencing is required, it should incorporate badger gates or large enough gaps for badgers to pass underneath easily. There should be a restrictive condition on consent that no close-boarded or other kind of fences impenetrable to wildlife should be allowed on this site.

#### *Greenspace*

It is advised that Badger Trust Gloucestershire is consulted regarding the landscaping across the rest of the site in order to maximise site connectivity for wildlife and the provision of supplementary foraging through appropriate planting. In particular the badgers should have access to the nearby fields and streams. They will be forced to forage further afield across roadways if this development proceeds. So incorporating crossing points via road tunnels would be best practice.

Prior to decisions on boundary treatment/landscaping/land profiling a badger specialist should be consulted in order to ensure permeability of the site and retention of essential corridors. This is particularly important in view of loss of foraging space which this large development removes.

#### *Surveys*

It is recommended that regular annual surveys are carried out of the badger population at this site for at least 5 years or until it is possible to demonstrate that they are once again settled in their new habitat.

11 September 2017

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## Gloucestershire County Council Community Infrastructure Planning Application Representations

<b>Date:</b> 04 June 2020
<b>To Case Officer:</b> Emma Pickernell
<b>From:</b> GCC Developer Contributions Investment Team
<b>Application Ref:</b> 20/00683/OUT
<b>Proposal:</b> Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration
<b>Site:</b> Land Adjacent To Oakhurst Rise Cheltenham
<b>Summary:</b> Contributions will be required to make the development acceptable in planning terms

### SECTION 1 – General Information

This application has been assessed for impact on various GCC community infrastructures in accordance with the “Local Developer Guide” (LDG) adopted 2014 and revised 2016. The LDG is considered a material consideration in the determination of the impact of proposed development on infrastructure.

<https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-local-developer-guide-infrastructure-and-services-with-new-development/>

The LDG is being updated and is currently out for public consultation Spring/Summer 2020.

The assessment also takes account of CIL Regulations 2010 (as amended)

In support of the data provided please note the following: -

#### Education

- The School Place Strategy (SPS) is a document that sets out the pupil place needs in mainstream schools in Gloucestershire between 2018 and 2023. The SPS examines the duties placed upon GCC by the Department for Education (DfE) and it explains how school places are planned and developed. This document is currently being reviewed and updated.

<https://www.gloucestershire.gov.uk/media/2085281/gloucestershire-school-places-strategy-2018-2023-final-web.pdf>

- Cost Multipliers - The DfE have not produced cost multipliers since 2008/09, so in the subsequent years we have applied the annual percentage increase or decrease in the BCIS Public Sector Tender

Price Index (BCIS All-In TPI from 2019/20) during the previous 12 months to produce a revised annual cost multiplier in line with current building costs, as per the wording of the s106 legal agreements. We calculate the percentage increase using the BCIS indices published at the start of the financial year and use this for all indexation calculations during the year for consistency and transparency.

Pupil Yields – GCC is using the updated Pupil Yields supported by two studies in 2018 and 2019. The updated pupil product ratios for new housing are; 30 pre-school children, 41 primary pupils, 20 secondary pupils and 11 post-16 pupils per 100 dwellings. All data/research produced is available from:

<https://www.gloucestershire.gov.uk/media/2093765/gloucestershire-county-council-ppr-report-703.pdf>

- The new LDG will include the most up-to-date PPR.
- This assessment is valid for 1 year, except in cases where a contribution was not previously sought because there were surplus school places and where subsequent additional development has affected schools in the same area, GCC will reassess the Education requirement.
- Any contributions agreed in a S106 Agreement will be subject to the appropriate indices.

### **Libraries:**

- Gloucestershire County Council has a statutory duty to provide a comprehensive and efficient library service to all who live, work or study in the County.
- New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA).
- The nationally recommended benchmark is now available in the following publication: Public Libraries, Archives and New Development A Standard Charge Approach (May 2010) It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.
- A Strategy for Library Services in Gloucester 2012. This strategy for providing library services is set in the context of two main drivers for change; the technological revolution and the financial situation.

<https://www.gloucestershire.gov.uk/libraries/library-strategy-and-policies/>

[https://www.gloucestershire.gov.uk/media/3413/updated\\_strategy1\\_-64623.pdf](https://www.gloucestershire.gov.uk/media/3413/updated_strategy1_-64623.pdf)

<b>SECTION 2 – Education and Library Impact - Site Specific Assessment</b>
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SUMMARY: Developer Contributions for: Land Adjacent To Oakhurst Rise Cheltenham- 20/00683/OUT

A summary of the likely contributions is found below (note these figures can be subject to change over time because of for example; updated multipliers and education forecasts).

Please note that on the potential granting of planning permission a decision will be made between the LPA and Gloucestershire County Council (GCC) as to whether the contributions will be secured via S106 or via CIL.

This is an updated assessment based on the new Pupil Yield data.

**Education:**

Please also see attached document showing full summary table as below

**SUMMARY: S106 Developer Contributions - Land adjacent to Oakhurst Rise, Cheltenham**      -      -      -

Phase of Education	Name of closest non-selective school and/or the education planning area.	No of qualifying dwellings	Pupil Yield	Max Contribution (£)	Contribution Requested	Contribution
Pre-school	EY provision in the Charlton Kings Primary Planning Area	39	11.70	£176,564.70	<b>£0.00</b>	<i>TBC - we do not currently think a contribution will be required.</i>
Primary	Holy Apostles CofE Primary School and/or primary places in the Charlton Kings Primary Planning Area	39	15.99	£241,305.09	<b>£241,305.09</b>	Full contribution requested
Secondary - 11-18	Cheltenham Secondary Planning Area	39	12.09	£250,743.48	<b>£250,743.48</b>	Full contribution requested

Calculation: Multiplier\* x Pupil Yield = Maximum Contribution)

\*Multipliers 2019 (DfE per pupil):

£15,091.00 – Pre-school/Primary

£19,490.00 – Secondary 11-16yrs

£23,012.00 – Secondary 16-18yrs

GCC has included the planning area for each of the phases of education as without further investigation of the schools, an appropriate project may not be achievable on a particular site.

**Pre-school:** There is currently enough local capacity to accommodate the additional pre-school numbers arising from this development therefore a pre-school contribution is not required.

**Primary:** This development is proposed in a very popular primary planning area, the closest school Holy Apostle's CofE Primary School is currently over capacity and whilst there appears to be a small amount of forecast surplus based on current children/babies registered with local GP's this is below the recommended 5-10%. Therefore a full primary contribution will be required towards Holy Apostles CofE Primary School and/or primary places in the Charlton Kings Primary Planning Area.

**Secondary:** The closest secondary school is forecast to be full or over capacity across year groups 7-11, with a little spare in years 12 and 13. Therefore a full secondary contribution will be required naming the Cheltenham Secondary Planning Area.

Please note the contribution amounts stated above are higher than the contribution requests stated previously relating to (18/02171/OUT) because the current assessment is based on the new pupil product ratios. In support of the increased yields, GCC commissioned an independent review of pupil yields from housing developments in 2018 and the findings of this report were supported by a second review undertaken in collaboration with housing developers carried out in 2019. Prior to these reviews pupil yields had remained unchanged for a number of years.

### **Library :**

The nearest Library is Charlton Kings Library

Detailed guidance within the GCC Developer Guide states that:

*“New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA)”.*

The scheme will generate additional need for Library resources calculated on the basis of £196.00 per dwelling. A contribution of 38,428.00 (43 dwellings x £196) is therefore required to make this application acceptable in planning terms, in accordance with the GCC LDG.

The nationally recommended benchmark is now available in the publication Public Libraries, Archives and New Development A Standard Charge Approach (May 2010). It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.

In accordance with the Library Strategy (“A Strategy for Library Services in Gloucestershire 2012, and any updates), where development occurs it will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In this case the proposed development and increase in population will have an impact on resources at the local library and a contribution is required.

### **SECTION 3 – Compliance with CIL Regulation 122 and paragraph 204 of the NPPF (2019)**

The Community Infrastructure Levy (CIL) is a charge which can be levied by local authorities on new development in their area.

Where planning applications are capable of being charged the levy, they must comply with the tests set out in the Regulation 122 of the CIL Regulations. These tests are as follows:

- 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.

As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

Amendments to the Community Infrastructure Levy Regulations 2010 were introduced on 1 September 2019. The most noticeable change in the amendments is the ‘lifting’ of the ‘pooling restriction’ and the ‘lifting’ of the prohibition on section 106 obligations in respect of the provision of the funding or provisions of infrastructure listed on an authority’s published ‘regulation 123 list’ as infrastructure that it intends will be, or may be, wholly or partly funded by CIL (as a result of the deletion of Regulation 123).

Any development granted planning permission on or after 1 September 2019 may now be subject to section 106 obligations contributing to infrastructure that has already benefited from contributions from five or more planning obligations since 6 April 2010 and authorities are allowed to use funds from both section 106 contributions and CIL for the same infrastructure. However, the tests in Regulation 122 continue to apply.

The Department for Education has updated its guidance in the form a of document entitled “Securing developer contributions for education (November 2019), paragraph 4 (page 6) states that:

*“In two-tier areas where education and planning responsibility are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the tests outlined in paragraph 1 [ the 3 statutory tests set out in 1.3 above]. The use of*

*planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding you need to deliver sufficient school places. We recommend that planning obligations allow enough time for developer contributions to be spent (often this is 10 years, or no time limit is specified)”*

Phasing of payments will be by agreement. It will be expected to be paid in advance of the impact arising, to allow sufficient time for expenditure. Payments will relate to identifiable triggers. The number of triggers/phases will depend on the scale of the development.

The education contributions which are based on up to date pupil yield data are necessary to fund the provision of the additional pre-school, primary and secondary school places generated by this development because there is a lack of capacity in the relevant education sectors to address the increase in the numbers of children needing a place at a local school arising directly from this development. There will be an additional 16 pupils in the primary sector and 12 pupils in the 11-18 secondary sector all needing a place at a local school.

The developer contributions are directly related to the proposed development in that the contributions have been calculated based on specific formulas relative to the numbers of children generated by this development and will be allocated and spent towards improving capacity at the local schools/planning area to enable children from this development to attend a local school .

The contributions are fair and reasonable to mitigate the impacts of the proposed development because they only relate to the additional pupils arising directly from this development to cover the costs of the extra places that will be required. The scale of growth is based only on the numbers of additional pupils arising from the proposed qualified dwellings.

Libraries:

The contribution towards the nearest library which is Charlton Kings is necessary to make this development acceptable in planning terms.

The contribution is directly related to the development in that it would be used towards expansion, increased opening hours/stock and improved facilities to mitigate the impact of increasing numbers of users of the library services and facilities directly arising from this development.

The contribution is reasonable and fair in scale being calculated by reference to the Public Libraries, Archives and New Development A Standard Charge Approach (May 2010).

#### **SECTION 4 – CIL/S106 Funding Position**

There are currently no mechanisms or mutually agreed financial arrangements in place between the LPA as CIL Charging Authority and GCC to fund GCC strategic infrastructure from the CIL regime to mitigate the impact of this development as it occurs.

The level of CIL charged on a development is unlikely to cover the amount of developer contributions that would be required to contribute towards the strategic infrastructure necessary to mitigate the impact of this development.

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Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

12<sup>th</sup> June 2020

Dear Ms Pickernell,

**Planning application: 20/00683/OUT**

**Proposal: Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration | Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire**

**Objection – damage and deterioration of veteran trees**

The Woodland Trust is the UK's leading woodland conservation charity. The Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering around 24,000 hectares (59,000 acres) and we have 500,000 members and supporters.

The Trust objected to a previous application (18/02171/OUT) for a housing development on this site on account of impacts to a number of veteran trees. We were also involved in the consideration of this previous application at appeal. While some positive changes have been made compared to the previous application, namely the retention of T3014, there are still some outstanding areas of concern that we consider have not been resolved since the previous application.

As such, the Trust **objects** to this application on the basis of adverse impacts to veteran trees. Below is a table outlining the trees of concern and their respective numbers on the Ancient Tree Inventory (ATI).

Tree no.	ATI no.	Species	ATI Categorisation	Grid reference
3010	167742	Oak	Veteran	SO9658821654
3014	167746	Oak	Veteran	SO9652021628
3015	167745	Oak	Veteran	SO9653121639
3018	167747	Oak	Veteran	SO9650321690
3022	167756	Oak	Veteran	SO9644021558
3027	167751	Oak	Veteran	SO9639621605
3030	167748	Oak	Veteran	SO9644521702

### Ancient and Veteran Trees

There are a number of trees within this site that are listed on the Ancient Tree Inventory (ATI), most being classified as veteran, though with a couple of ancient specimens as well.

Planning Policy Guidance (PPG) for the 'Natural environment', which is intended to clarify and interpret the NPPF, and was updated on 21<sup>st</sup> July 2019, states<sup>1</sup>: *"Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. **Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.**"*

Natural England's standing advice for ancient woodland, ancient trees and veteran trees<sup>2</sup> states: *"Ancient and veteran trees can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are irreplaceable habitats with some or all of the following characteristics."*

*"An ancient tree is exceptionally valuable for its: great age, size, condition, biodiversity value as a result of significant wood decay habitat created from the ageing process, and cultural and heritage value."* It states further: *"All ancient trees are veteran trees, but not all veteran trees are ancient. A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity, cultural and heritage value."*

Veteran features are not necessarily a product of tree age or size; they also develop as a result of a tree's life or environment. This is particularly emphasised within the PPG, in which the key characteristics of size, age or condition are considered separately. However, this is not taken into account in the applicant's 'RAVEN' system<sup>3</sup>. The applicant's surveys impose a requirement for 'very large size' on trees before they can be further assessed for veteran features. The basis for this is ecologically unsound and, unfortunately, facilitates removal of trees or their inadequate protection.

A key function of the term 'veteran' is to capture trees that have exceptional habitat value as well as those with cultural and heritage value. The term is not a true ecological grouping, and serves to help us to identify trees which are important for biodiversity in their own right, and as part of a wider assemblage; veteran trees are important for the accumulation of features that are unable to be replicated within our lifetime. Identifying and evaluating veteran features requires the application of knowledge, experience and judgement. We acknowledge that government definitions do not provide precise, measurable parameters against which to easily recognise veteran trees. However, Natural England's standing advice, planning policy

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<sup>1</sup> <https://www.gov.uk/guidance/natural-environment>

<sup>2</sup> <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

<sup>3</sup> <https://www.flac.uk.com/wp-content/uploads/2018/08/RAVEN.pdf>

guidance, and expert reference texts<sup>4</sup> do provide clear instruction that tree girth should not be used as the main qualifier for veteran classification.

A particular example of this is tree T3014, an oak tree that has not been identified as a veteran tree by the applicants and so a Veteran Tree Buffer (VTB) zone has not been applied to this tree. We had the opportunity to assess this tree in August 2019. At that time, we noted a number of veteran features despite the tree girth not reaching a very large size<sup>5</sup>. This oak tree features a historic lightning strike, exposed heartwood, decay cavities, evidence of invertebrate use and presence of fungal fruiting bodies (please see Appendix 1 for further details and images).

### **Planning Policy**

National Planning Policy Framework (NPPF), paragraph 175 states: *“When determining planning applications, local planning authorities should apply the following principles:*

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and **ancient or veteran trees**) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;”*

Exceptional reasons are defined in Footnote 58 as follows: *“For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.”*

We consider that the impact of the development on veteran trees does not fit these criteria and as such should be refused on the grounds it does not comply with national planning policy.

Paragraph 5.4.12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 supports paragraph 175c of the NPPF stating: *“Ancient woodland and veteran trees will be protected in accordance with the NPPF.”*

Cheltenham Borough Council has recently submitted the new Local Plan for inspection to the Planning Inspectorate. Within the Cheltenham Plan ‘Policy GI3: Trees and Development’ the following is stated: *“Development which would cause permanent damage to trees of high value (Note 1) will not be permitted.”* Note 1 is defined in the following manner: *“‘High value’ means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of a site or locality.”* The fact that veteran trees recorded on the ATI have not been recognised by the applicant and afforded appropriate buffer zones means that they are not being adequately protected, and that the proposals are therefore contrary to this policy.

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<sup>4</sup> Lonsdale, D. (ed.) (2013). Ancient and other veteran trees: further guidance on management. The Tree Council, London 212pp.

<sup>5</sup> FLAC impose a requirement for ‘very large girth for species’ on trees before they can be further assessed for veteran features.

### **Impacts on Veteran Trees**

Ancient and veteran trees are a vital and treasured part of the UK's natural and cultural landscape, representing a resource of great international significance. The number of ancient and veteran trees on this relatively small site, makes the site and the assemblage of trees taken together particularly valuable for wildlife. The existing values will not be able to be sustained if the site is developed to this intensity as we consider that existing ancient and veteran trees will deteriorate and it will not be possible to provide for the continuity of appropriate trees that could become veterans of the future.

The trees listed in the above table are all recorded on the ATI as veteran specimens. However, the applicant has not recognised these trees as veterans and therefore not afforded them buffer zones; in line with Natural England's standing advice veteran trees should be afforded a buffer zone of 15 times the stem diameter or 5m beyond the crown, whichever is greater. Therefore, it is apparent that numerous elements of the development, such as buildings, roads and gardens will encroach on their RPAs. It is, however, helpful to see that trees which are recognised as veterans by the applicant have now been afforded buffer zones without encroachment from the proposed development.

Trees can be vulnerable to the changes caused by nearby construction/development activity. Development within the RPAs and/or canopy of ancient and veteran trees can result in adverse impacts as the tree's root system is adversely affected by soil compaction and direct root damage. The potential direct and indirect impacts of development on ancient and veteran trees are clarified in Natural England's standing advice, including:

- *damaging roots and understorey (all the vegetation under the taller trees)*
- *damaging or compacting soil around the tree roots*
- *polluting the ground around them*
- *changing the water table or drainage of woodland or individual trees*
- *increasing the amount of pollution, including dust*
- *increasing disturbance to wildlife from additional traffic and visitors*

Furthermore, new development close to such trees increases the targets and risks associated with people and property in proximity to them, thereby compromising their long-term retention.

The British Standards guidelines 'Trees in relation to design, demolition and construction (BS5837:2012)' clarify that construction work often exerts pressures on existing trees, as do changes in their immediate environment following construction works. Root systems, stems and canopies, all need allowance for future growth and movement, and should be taken into account in all proposed works on the scheme through the incorporation of the measures outlined in the British Standard. However, it is important to also consider the guidance within Natural England's standing advice when specifically taking the protection of ancient and veteran trees in to consideration. This standing advice identifies mitigation measures that can

be implemented where nearby development may result in impacts on ancient and veteran trees, including:

- *putting up screening barriers to protect woodland or veteran trees from dust and pollution*
- *a buffer zone at least 15 times larger than the diameter of the tree, or 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter*
- *protecting veteran trees by designing open space around them*
- *identifying and protecting trees that could become veteran trees in the future*

The need to ensure that ancient and veteran trees are afforded appropriate space for their long-term health is supported by the BS5837 guidelines which states in paragraph 5.2.4 that *"particular care is needed regarding the retention of large, mature, over-mature or veteran trees which become enclosed within the new development"* and that *"adequate space should be allowed for their long-term physical retention and future maintenance"*.

Veteran trees typically feature significant deadwood habitat of great value for biodiversity, e.g. retained deadwood in the crown, broken/fractured branches and trunk cavities/wounds. The level and type of usage of such a high density residential development will increase the health and safety risks associated with these trees leading to a requirement to manage them more intensively resulting in loss of habitat and/or consequential decline or removal.

Our concerns regarding the increased risk that veteran trees can pose when more exposed to human contact is supported by the guidance within David Lonsdale's 'Ancient and other Veteran Trees: Further Guidance on Management' (2013), which states in paragraph 3.5.2.1 *"...avoid creating new or increased targets: as happens for example following the construction of facilities (e.g. car parks or buildings) which will bring people or property into a high risk zone. Not only does this create targets, it also harms trees and therefore makes them more hazardous"*.

The Trust requests that the council's tree officer and planning officer take our comments and government guidance into consideration and ensures that the applicant is applying suitable buffers to those veteran trees identified as such on the ATI. Where development encroaches on the RPAs of these trees the layout of the development should be altered to prevent such impacts. If this is not possible then the proposals should be refused planning permission as the encroachment and subsequent impact of the development on the trees' root systems would directly contravene local and national planning policy and government guidance.

The significant concentration of ancient/veteran trees within the development site means that damage to veteran trees could lead to their failure and ultimately a reduction in the available habitat for species reliant on dead and decaying wood habitat, i.e. saproxylic invertebrates, bats and certain species of birds. In its current form the development would result in damage to a number of veteran trees on the site, which would be highly deleterious to the wider environment of mature and veteran trees that may harbour rare and important species.

### **Conclusion**

Ancient and veteran trees are irreplaceable; the habitat that they provided cannot be re-created. Development resulting in the damage or long-term deterioration of such trees is unacceptable and contrary to national planning policy.

In summary, the Woodland Trust **objects** to this application on the basis of damage and deterioration of seven veteran trees.

While the applicant has recognised some of these trees as veteran we do not consider that they have fully recognised the qualities and importance of all the trees on site and appropriately categorised them as veterans. As such, a number of trees have not been afforded the suitable RPA that their veteran status warrants, leaving them vulnerable to adverse impacts. We ask that measures continue to be explored to ensure that veteran trees are fully recognised and that adverse impacts to such trees are avoided in line with Natural England's standing advice.

We hope you find our comments to be of use to you. If you are concerned about any of the comments raised please do not hesitate to get in contact with us.

Yours sincerely,

Jack Taylor  
Lead Campaigner – Woods Under Threat

**Appendix 1. Veteran features of tree 3014 identified in August 2019**

- A) Wide view of tree 3014, showing condition of crown, with some large diameter dead wood and potential for retrenchment of upper crown.
- B) Historic lightning strike resulting in significant portion of exposed heartwood.
- C) Decay holes/ dry habitat space developing between sapwood and exposed heartwood.
- D) Large, accessible cavities high within tree crown
- E) Evidence of invertebrate activity including 'exit holes' in heartwood and accumulating decaying wood/ litter
- F) Fungal fruiting bodies of *Stereum gausapatum*, a heart rot species.



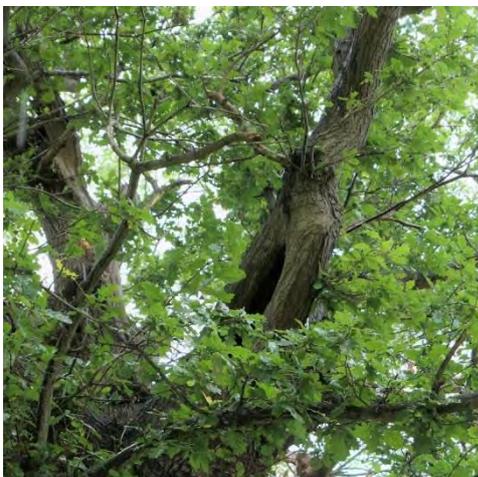
**Image A**



**Image B**



**Image C**



**Image D**



Image E

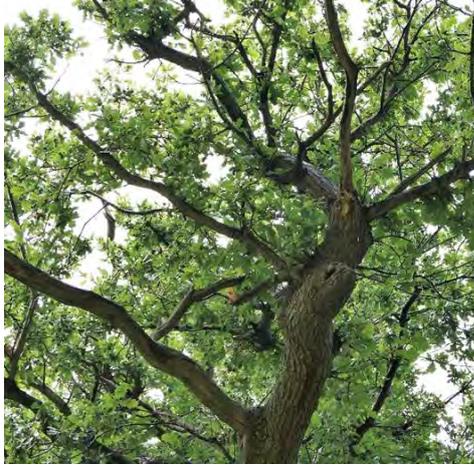


Image F



## ECOLOGY (BIODIVERSITY) OBSERVATIONS ON A PLANNING APPLICATION

<b>To:</b> Emma Pickernell Senior Planning Officer, Cheltenham BC	<b>Date:</b> 02/09/2020 <b>My Ref:</b> 20(030A)
<b>From:</b> Gary Kennison, Principal Ecologist	
20/00683/OUT Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration, Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire GL52 6JU Grid Ref (approx.) 396492 221592	

*Based on inspection of submitted drawings and other documents including ecological reports (and letters)*

### 1. SUMMARY OF RECOMMENDATION

No observations and/or minor observations	
<b>No objections, subject to reserved matters (conditions) and informatives</b>	✓
Further information and/or clarification required	
Refusal (for the reasons set out below if details remain unchanged)	
Consider enforcement or other action	

### 2. Advice by Topic

Item (Topic)	Coverage	General Observations
Ecological Reports	Ecological Appraisal (April 2020) by Aspect Ecology	Updates previous site surveys/assessments between 2016 and 2018. Aspect Ecology added a botanical survey of the grassland in July 2019 and an overview survey of the site in April 2020.
Designated Sites	Cotswold Beechwoods Special Area of Conservation (SAC)	The SAC is about 8km away to the south west and there is potential for increased recreational disturbance to occur on this European Site. To make sure this development is not harmful the Appropriate Assessment stage of HRA must be triggered by the LPA.  If the LPA after consulting Natural England is able to conclude in its Appropriate Assessment (HRA) that there

Item (Topic)	Coverage	General Observations
		<p>would be no adverse effect on the integrity of the SAC then planning permission could be approved if no other matters warranted refusal.</p> <p>The developer's consultant Aspect Ecology has commented on HRA at paragraph 3.1.3 of the Ecological Appraisal. It references the previous HRA process for application 18/02171/OUT and the associated submitted document entitled 'Information to inform a Habitats Regulations Assessment' dated November 2018. This is relevant to the Appropriate Assessment that the LPA needs to carry out for the current application which is for less residential units (reduced from 69 to 43). In summary the developer's ecologist conclusions are that the latest development is also unlikely to have an adverse effect on the integrity of the SAC. A homeowner's information pack has been proposed previously by Natural England (application 18/02171/OUT) and this is included in my recommended LEMP condition (reserved matter) below.</p>
	Site of Special Scientific Interest (SSSI)	If potential significant effects on the SAC (above) from recreational disturbance can be avoided then they would also be on the Cotswold Commons and Beechwoods SSSI too.
	Local (Key) Wildlife Site (LWS)	Nearest is KWS is Glenfall Wood (almost 1km away to the east). Further distant is Ashgrove Meadow and Charlton Kings Railway Line to the south west and south. Development unlikely to significantly affect these KWSSs if the SAC is also deemed to be materially unaffected (see above).
	National or Local Nature Reserve (NNR or LNR)	Part of the Cotswold Commons & Beechwoods SSSI is an NNR (so above comments apply). Nearest LNR is Griffiths

Item (Topic)	Coverage	General Observations
		Avenue (about 4km to the west). Development unlikely to significantly affect these sites if the SAC is also deemed to be materially unaffected. (see above)
	Regionally Important Geological Site (RIGS)	Development unlikely to significantly affect such sites. None are nearby
Conservation Road Verges (CRVs)	As in current version of the Highways Authority's register	Nearest CRV is Colegate Farm, Dowdeswell.  Development unlikely to significantly affect it.
Priority Habitats (including hedgerows)	Hedgerows	<p>See also trees below.</p> <p>The condition of the hedgerows H1 and H2 was checked in April 2020 in comparison to a previous survey in 2017. Hedge 1 is re-confirmed as still being important using the Hedgerows Regulations methodology. Hedge 2 is again not considered to meet the importance test under the Hedgerow Regulations.</p> <p>H1 and H2 will suffer some loss (comparing the Landscape Strategy drawing with the Habitats &amp; Ecological features drawing in the ecology report). H3 to H6 are poorer quality and are fragmented already. Proposed landscaping will improve this situation somewhat but importantly the connectivity provided by the site hedgerows will be improved by significant new tree/shrub planting for a range of animal species (birds, mammals and invertebrates). Given this the residual impact of the modest tree and hedgerow loss proposed will have little residual (if any) impact on biodiversity and a net gain overall.</p> <p>The Tree Protection Plan (Dwg No. 38-1036.02 Rev B) provides details for the protection of all retained trees and hedges during the construction phase.</p>

Item (Topic)	Coverage	General Observations
Trees	Many, various species	<p>See also hedgerows above.</p> <p>Trees (including aged or veteran ones) on site. The consultant ecologist states that all of the veteran trees will be retained. The Planning Statement at 3.10 says there will be “the loss of two mature trees (3016 ash; 3017 sycamore), as well as one mature tree deemed unsuitable for retention (3004). There is a good chance that the ash will be lost to ash die-back disease in the coming decade even if the development does not go ahead. These trees are situated up against the northern hedgerow H4. Additionally a few shrubs not obviously of retained hedgerows may also be lost but most will probably be retained.</p> <p>It is crucial that the retained trees (the vast majority on site) are properly protected during the construction and occupation phases along the lines of government advice and British Standard ‘BS 5837, Trees in relation to design, demolition and construction.’ The Tree Protection Plan (Dwg No. 38-1036.02 Rev B) provides details for the protection during development of all retained trees and hedges. The application also comes with proposed significant new tree and shrub planting (landscape strategy drawing) and a proposed Management Plan for these. Most of the new trees will form a relatively wide native woodland belt of great potential future value for biodiversity</p> <p>There will be a small negative impact on trees and an improvement upon the previous schemes. Taking an ecological viewpoint the landscape proposals if</p>

Item (Topic)	Coverage	General Observations
		<p>implemented as soon as possible would be good mitigation for the immediate limited impact on trees (as a habitat) in the medium to long-term.</p> <p>Conditions are needed to confirm and successfully implement the landscape strategy and tree protection plan which incorporates the arboricultural methods and supervision.</p>
Other habitats / features of interest	Several	<p>Scrub, semi-improved grassland, ruderal vegetation &amp; standing water (temporary) occur in places. Grassland reported to be grazed informally and also annually mown in places with arisings not being removed. A bonfire site with creeping thistle and stinging nettle has also been noted. Current management and use of the site is not likely to conserve or enhance biodiversity value long-term. Most of these site features mentioned are relatively common in Gloucestershire and not of particularly high value for biodiversity.</p> <p>The pond (which has no aquatic vegetation and dries out very regularly) will be lost by the proposals but well replaced by a new (surface water attenuation) pond towards the south of the site. Although this may be dry at times it is of a design that at least marginal plant species and associated fauna will be able to establish there. About 57% of the semi-improved grassland will be lost but the remaining will be retained as green space for use by a nearby school. The area of semi-improved grassland and ruderal vegetation to be lost to new housing , roads and gardens is a biodiversity loss that needs factoring in but the overall long-term outcome for biodiversity is likely to be</p>

Item (Topic)	Coverage	General Observations
European Protected Species (EPS)	Bats – Some common pipistrelles but a few soprano pipistrelles, noctules, serotines, <i>Myotis</i> species and lesser horseshoe recorded in the vicinity/nearby	<p>positive (see below).</p> <p>A variety of species have been recorded on site and in the general area - which is to be expected given the location and habitat features on site. The site certainly has some value for commuting and foraging bats due to presence of hedgerows and trees with associated grassland.</p> <p>Aspect Ecology carried out an updated Preliminary Roost Assessment of the trees with Potential Roosting Features (PRFs) in April 2020. Table 5.1 in the ecology report provides a useful summary. It updates the information in All Ecology's June 2018 detailed survey of trees to see which might be being used by bats (application 18/02171/OUT). Plan 2 within the All Ecology report shows the location of trees (labelled T1 to T19). The updated assessment of trees by Aspect Ecology in April 2020 reports only 2 notable changes from 2018 and that was that trees T12 and T14 now had lower potential for roosting bats (5.1.12). T6 which had a single common pipistrelle bat roosting in it in 2017 is not of high conservation significance but it is being retained as part of the proposed development. The two trees proposed for removal (an ash and sycamore –see trees above) have not been identified as likely to harbour bat roosts.</p> <p>The proposals will produce a few gaps in existing hedgerows H1 &amp; H2 (see above) but due to the additional and reinforcement planting elsewhere (not least the new woodland belt) the impact on bat movements and foraging overall will be positive. This is conditional on no unnecessary obtrusive lighting. A suitable lighting scheme that does not adversely impact on existing</p>

Item (Topic)	Coverage	General Observations
		<p>and increased bat activity of the site is entirely possible. The scheme must ensure that the majority of the retained and habitats/features are available for bats to use.</p> <p>It is noted that additionally some bat boxes will also be provided so that roosting opportunities will be as good if not better than the current situation (see EE4 and Appendix 5487/4 in the ecology report). These are proposed for erection on trees <u>and integrated into a proportion of the new buildings</u>. This will boost the value of the site as until new trees mature roosting opportunities will be limited.</p> <p>Mitigation measures MM1 to MM6 plus ecological enhancements EE1 to EE4 are appropriate and relevant to conserve and enhance bats on site. These can be secured within a CEMP and LEMP (see recommended conditions below)</p>
	Dormouse	Unlikely to be present and the development is unlikely to significantly affect them.
	Great Crested Newt (GCN)	GCN District Licencing mapping indicates the area impacted by development works site is within an amber risk zone for GCNs. I am content to accept the justification that the development is unlikely to adversely affect great crested newts (ecology report 5.4.2 to 5.4.4 & 5.8.2).
	Otter	Unlikely to be present and the development is unlikely to significantly affect them.
Apply 3 derogation tests? [Habitats Regs for EPS licencing]	Although quite unlikely given the revised proposals the need for a bat licence cannot be completely ruled. There is only a low risk of an unknown roosts being discovered that may be affected by the development works.	If the assertions of the ecological assessments are correct then the 3 derogation tests in the Habitats Regulation do not need to be considered. See 'Bats' above.

Item (Topic)	Coverage	General Observations
Other Protected Species	Water vole	Unlikely to be present and the development is unlikely to significantly affect them.
	Badger	The effect or not on badgers from the proposed development site has been reviewed by additional updated surveys and reported in a separate confidential appendix (Aspect Ecology October 2018) that has been submitted to the LPA. The revised proposals for mitigating any effect upon and conserving local badgers are acceptable in my view.
	Reptiles	In addition to previous on site surveys Aspect Ecology carried out an artificial refugia survey for reptiles between July and August 2019. Reptiles and evidence of them being present was also directly searched in suitable places/features. I can accept that there is only a low population of reptiles present consisting of only very few individual slow worms and grass snakes. The mitigation and enhancement measures (MM8, EE2, EE3, EE6 & EE7) plus proposed new landscaping should have a neutral to positive impact overall.
	Nesting birds	A good variety of birds are present in the general area and on site mainly utilising the boundary trees and hedgerows. There are much potential nesting sites present but much of this will be retained. Measures MM1, MM2, MM9, EE1, EE2, EE3, and EE5 are protective and beneficial for birds. In the long term the development would likely to have a short term small adverse impact but in the long-term a positive overall outcome is certain.
Priority Species	Hedgehog (for house sparrow and lesser spotted woodpecker see birds above)	Hedgehogs are use hedgerows and nearby gardens. A small population may use the proposed development site. However overall with the mitigation measures MM1, MM2, MM6, MM7 and enhancement measures EE1,

Item (Topic)	Coverage	General Observations
		EE2, EE6 and EE7 the proposed development is unlikely to affect the local population which is likely to be enhanced. This excludes the fact there will be gardens which may have additional accessible habitat.
Invertebrates	Generally	A number of species have been recorded in the vicinity but none are particularly rare or are protected by law. A reasonable invertebrate assemblage is likely to be associated with the trees, scrub and hedgerows. The presence of old trees with some rotting wood is an important feature for some not common invertebrates. Compensation for lost habitat and enhancement for invertebrates is offered. Measures MM1, MM2, MM6, EE1, EE2, EE3, EE6, EE7 and EE8 are appropriate and relevant for invertebrates. Overall the development should be beneficial for invertebrates including pollinating insects.
Mitigation (Compensation) included?	Yes	<p>The mitigation/compensation and enhancement proposals are set out as measures in Section 6 of the Ecological Appraisal. Mitigation measures MM1 to MM9 and enhancement measures EE1 to EE8 are appropriate and relevant to the site and development.</p> <p>Enhancements include extensive native tree/shrub planting, new wildflower grassland, creation of wetland habitat, bat and bird boxes, and also features for reptiles, amphibians and invertebrates.</p>
Landscaping/Aftercare included?	Yes	<ul style="list-style-type: none"> <li>• Landscape Strategy drawing 192.16.101 Rev. D</li> <li>• Further details of aftercare need to follow as part of reserved matters, i.e. production of a LEMP (Landscape &amp; Ecological Management Plan)</li> <li>• Funding and aftercare</li> </ul>

Item (Topic)	Coverage	General Observations
		management responsibilities will need to be secured through a S106 agreement if the development is approved
<b>Biodiversity Net Gain (BNG)?</b>	Yes	<ul style="list-style-type: none"> <li>• Losses to biodiversity have been reduced compared with previous proposals for the site.</li> <li>• Tree planting and a good variety of other landscape features are being proposed, these including new hedgerows, wildflower (meadow) planting and a new wetland feature.</li> <li>• In my view BNG would be achieved given proposals and safeguards (including a S106 agreement).</li> </ul>
<b>Further information/action including survey work required before determination?</b>	Yes	Cheltenham Borough Council needs to complete an Appropriate Assessment (HRA) of this development proposal.
<b>Planning conditions and/or Informatives (Advice Notes)?</b>	Yes	See below but cannot be confirmed until an HRA (AA) has been completed and agreed with by Natural England.

### 3. Additional Comments on Advice (above)

If this development is allowed and does not commence before the end of April 2022 then there is a need to repeat the preliminary tree roost assessment. The ecology report includes this as mitigation measure MM3. This is in accordance with British Standard BS 42020:2013 and is captured in one of the recommended conditions below (CEMP).

Compared to previous development schemes for this site (17/00710/OUT & 18/02171/OUT) there will be fewer units and more retention of habitats and features which is welcomed. Together with mitigation measures, extensive planting and additional new feature proposals net gains for biodiversity are likely.

### 4. Assessment against Legislation, Policy and Guidance

Relevant legislation, policy and guidance considerations have been taken into account as part of this response, including as relevant the following:

- *Wildlife and Countryside Act 1981 (as amended)*
- *The Conservation of Habitats and Species Regulations 2017 (as amended)*
- *Natural Environment and Rural Communities Act 2006*
- *Protection of Badgers Act 1992*
- *Biodiversity – Code of practice for planning and development BS 42020:2013*
- *Natural England's Standing Advice*
- *National Planning Policy Framework and Planning Practice Guidance*

- ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System
- Local Development Plan(s) <https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/>

## 5. Conclusion

The appeal decision of earlier application 18/02171/OUT cites some uncertainty that biodiversity value overall could be conserved into the occupation phase. This current application 20/00683/OUT is for a smaller number of residential units (now 43 down from 69) and so conservation and enhancement of biodiversity is very likely. It is my conclusion that the latest development proposal would not have a significant adverse effect upon biodiversity overall and with the proper addressing of reserved matters including a S106 agreement a biodiversity net gain would accrue.

## 6. Recommended Action

The following items should be addressed to be able to consent this development.

### Pre-determination:

1. Item - The LPA must complete an Appropriate Assessment which is Stage 2 of Habitats Regulations Assessment (HRA). A draft must be sent to Natural England to see if they agree with its conclusions before the HRA is confirmed. In my view a conclusion of no adverse effect on a European Site's integrity could be affirmed to make the development acceptable in law.

### Determination:

If given consideration of all matters the LPA is minded to grant consent for this outline development then the reserved items such as the following below are recommended:

1. Condition – *The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1036.03-A dated 17.04.20 which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.*

**Reason:** *To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175.*

2. Condition – *No development shall take place until a Lighting Scheme is submitted to the Planning Authority for approval. The Scheme is to be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated April 2020. The scheme shall include the following details:*

- (a) *the position, height and type of all lighting;*
- (b) *the intensity of lighting and spread of light as a lux contour plan;*

(c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux;  
(d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and maintained in accordance with the manufacturer's recommendations and scheme details.

**Reason:** To ensure that foraging and commuting of bats is not discouraged at this location and in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 170, 175 and 180 and Section 40 of the Natural Environment and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions.

3. Condition – Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:

Ecology

- (i) Outline Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated April 2020.  
(ii) Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated April 2020.  
(iii) Adherence to the Tree Protection Plan incorporating arboricultural methods  
(iv) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) and other responsible persons plus lines of communication

Other Items

xvi) [insert relevant text here for other items as deemed necessary, e.g. hours of working, visual impact, dust, noise, water management, travel plan, management of hazardous substances]

**Reason –** To protect the local environment including its landscape and biodiversity value in accordance with Local Plan Policy X and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

4. Condition – Prior to the commencement of the development a Landscape and Ecological Management Scheme based on the Landscape Strategy drawing 19216.101 revision D dated 14-04-20, Proposed New Tree Planting Management Plan – Head of Terms and the Ecological Appraisal dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive) shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that

covers:

(a) *Aims and objectives of the scheme including*

*conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;*

(b) *A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;*

(c) *Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;*

(d) *Provision for educational but not public access;*

(e) *A work and maintenance schedule for 5 years and arrangements for beyond this time;*

(f) *Monitoring and remedial or contingency measures;*

(g) *Organisation or personnel responsible for implementation of the scheme;*

(h) *Issue of a homeowner's information pack on local recreational opportunities and the sensitivity of the Cotswolds Beechwoods SAC.*

*The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.*

**Reason:** *To conserve and enhance the landscape and biodiversity value of the land and in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.*

5. Planning Obligation (S106) [Linked to recommended condition above] – Funding and aftercare responsibilities need to be put in place to ensure the long-term management of landscaping and other installed [ecological] features so that important biodiversity is conserved and a net gain achieved. The arrangements must adequately ensure for the maintenance of habitats, trees, hedgerows and artificial biodiversity features. There should be a guarantee that the site will be used for educational and biodiversity conservation purposes and not be developed in the future.

6. Advice Note - *In relation to the County Council's Service Level Agreement with the Local Biological Records Centre and to assist in the strategic conservation of countywide biodiversity, all species and habitat records from the ecological work commissioned by the applicant should be copied [if not already] to the Gloucestershire Centre for Environmental Records (GCER).*

It is my view that the above advice is in accordance with the National Planning Policy Framework (NPPF), Planning Policy Guidance (PPG), National Design Guide (N1 to N3), ODPM Circular 06/2005, Natural England's Standing Advice, and with Section 40 of the Natural Environment and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions. Opportunities to produce measureable gains for biodiversity have been explored (NPPF paragraph 175(d)).

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<b>APPLICATION NO: 20/00683/OUT</b>		<b>OFFICER: Mrs Emma Pickernell</b>	
<b>DATE REGISTERED:</b> 29th April 2020		<b>DATE OF EXPIRY :</b> 29th July 2020	
<b>WARD:</b> Battledown		<b>PARISH:</b> CHARLK	
<b>APPLICANT:</b>	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust		
<b>LOCATION:</b>	Land Adjacent To Oakhurst Rise Cheltenham		
<b>PROPOSAL:</b>	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration		

### REPRESENTATIONS

Number of contributors	<b>248</b>
Number of objections	<b>140</b>
Number of representations	<b>0</b>
Number of supporting	<b>108</b>

Cedar House  
20B Ledmore Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8RA

**Comments:** 23rd June 2020

There is a shortage of family and affordable properties in Charlton kings. This development would help address that, without spreading the village wider.

Brecon House  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 25th June 2020

I am supporting because Cheltenham lacks affordable houses for young people and I feel these houses will benefit these people.

**Comments:** 25th June 2020

I am supporting this application as it will provide affordable houses for young people, which Cheltenham lacks. Especially Charlton kings. As a young adult myself I am worried that young people won't be able to live/work in Cheltenham in the future because of the obscene prices. I don't think the "objectors" seem to understand this or think from a young persons perspective of what a huge benefit this would be to Cheltenham.

It will also benefit St Edwards School which is in desperate need of some support.

I really do hope some "objectors" will try to be more open minded, less selfish and think of others futures in Cheltenham not just theirs.

Brereton House  
Andoversford  
Gloucestershire  
GL54 4JN

**Comments:** 29th June 2020

I am in full support of this development. It is needed in the area and the school will benefit from the money if it goes ahead.

It's good location for the development and will benefit the area greatly.

46 Pinewood Drive  
Cheltenham  
Gloucestershire  
GL51 0GH

**Comments:** 30th June 2020

Having found it impossible to find a property in Cheltenham, including the Charlton Kings area recently, (so building our own now) it is obvious we need more housing, especially affordable housing, so if this development can provide these I fully support the application at Oakhurst.

Mount view  
Gretton fields  
Cheltenham  
GL54 5hh

**Comments:** 4th July 2020

Affordable homes are desperately needed in Cheltenham for younger couples and those that want to move away from rented properties. There are over 2500 people in Cheltenham on the waiting list for affordable homes and this needs to change.

Pages  
Chargrove Lane  
Cheltenham  
GL51 4XB

**Comments:** 7th July 2020

This development will deliver in short order 25 private homes and crucially a mixture of 18 affordable homes which has got to be a good thing for Cheltenham The school and the land owners will be in favour of this application going ahead. Both my children attended St Edwards school and I know that using this area of the site will not diminish the schools ability to carry out all the usual activities that it does today and on the positive side the school will hopefully gain some funding to help keep it maintained. They will still retain 35 acres - the land that they actually use.

I am also very pleased to hear that the attenuation system is being put in place which will reduce the flash flood risk.

267 Bath Road  
Worcester  
WR5 3AH

**Comments:** 14th July 2020

I think this application is a good idea, I have no objections.

Gray House  
Harp Hill  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6PR

**Comments:** 5th August 2020

We write to object very strongly against this proposed development for a reduced number of houses.

This reduction does nothing to address the factors against the original two applications. The site is so steep from Oakhurst Rise that there is bound to be flooding whatever the developer tries to do. The climate is changing and when it does rain it's extremely heavy compared to years ago, so more concrete will exacerbate the situation.

Also surely you cannot consider putting more cars out onto the London Road so near the Six Ways junction which is a nightmare at the best of times, let alone rush hour.

The name Six Ways speaks for itself!

Please listen to this and refuse this application completely.

The Flower House  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

**Comments:** 5th August 2020

My wife and I strongly object to the above planning application.

The vehicular access to and from the proposed development is entirely inadequate.

The roads approaching the site always have many parked vehicles on both sides of the approach roads!

The access to Oakhurst Rise has a one way system and the surrounding roads layout are overused.

Many families with young children would have more pollution spilling from more vehicles and small children, in particular, who are lower to the ground, would have vehicle exhausts puffing pollutants in their faces!

This is a 'landlocked' site with no escape routes in an emergency situation.

Many thanks for your consideration of this matter.

21 Gabell Road  
Cheltenham  
Gloucestershire  
GL53 9FA

**Comments:** 17th June 2020

I supported this application in an earlier iteration for the same reason that I am supporting this revised and reduced application - Affordable Housing.

Cheltenham has a dismal record of delivering Affordable Housing and this application provides much needed affordable homes for the over 2000 people who remain on the housing waiting list.

The needs of the many in this town far outweigh the few privileged objectors many of whom already own their own homes.

Southern Lawn  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 9th August 2020

I strongly object to this scheme. Even with a reduction to 43 up-market very large houses, with the strong likelihood that each property will own two or three vehicles, there will be a major traffic problem. Living on Ashley Road, each property has at least three vehicles, and sometimes 5, so the roads will have upwards of an extra 120 vehicles using the roads most days, and the vehicles tend to be large 4x4s etc. Beaufort Road already is a very well-used rat run, with speed restrictions and lots of vicious speed bumps in place. However the road is not fully one way, but has restricted access to vehicles from one side, so it has a virtually continuous one way traffic flow. However this many vehicles will often mean that lots of vehicles will go against the prevailing traffic, causing major snarl ups, during peak morning and evening times, as with cars parked on this road, it will not be possible for two way traffic to operate normally. I also frequently cycle along this route and it is already quite hazardous for cyclists with many vans and heavier vehicles using this short cut to avoid the traffic lights at the London Rd and Cirencester Road junction.

23 Wordsworth Avenue  
Cheltenham  
Gloucestershire  
GL51 7DY

**Comments:** 29th May 2020

There is a Badger family, Foxes who have 6 cubs, the beautiful roe deer in the meadow, among other species of wildlife that are now at risk of losing their homes, through a planning proposal to build luxury homes which will destroy the ancient meadow and their homes. They won't survive this. The planning application has been turned down twice, but it appears that the building corporation, have slyly put in another application during lock down. The planning reference is REF: 20/00683/ for Oakhurst Rise.

I believe any further housing developments would be detrimental to the area as well due to the inadequate road system which already cannot cope since the building of the other new housing estates

34 Lechlade Road  
Highworth  
SN67HQ

**Comments:** 7th June 2020

Our youngest son spent a short time at St Edwards Prep School and from all our return visits to see friends we know just how special the land in question is. Many hours have been spent playing in the field and many amazing bugs and creatures have been seen up close by very excited boys. Evenings have been spent waiting to see what would emerge and we have never been disappointed. I can not imagine the damage and loss of habitat any construction work would have on this area. It's incredibly disappointing that this is once again even being considered.

Ancient Trees Forum

**Comments:** 15th June 2020

The Ancient Tree Forum (ATF) is a charity which has pioneered the conservation of ancient and veteran trees and their associated habitats such as ancient wood pasture and parkland. The ATF seeks to secure the long-term future of ancient and veteran trees and associated habitats through advocacy of no further avoidable loss, good management, the development of a succession of future ancient and veteran trees, and seeking to raise awareness and understanding of their value and importance.

The ATF objects to this application because the way veteran trees have been identified means that trees, which should be protected by planning policy and meet the criteria set out by the guidance (National Planning Policy Framework glossary (2018), Standing Advice (2019) and Planning Policy Guidance (2019)), have been wrongly excluded. They are a significant factor in considering this application.

We set out our rationale for identification of ancient and veteran trees in relation to NPPF in Annex 1. In line with the government guidance, it is our view that for a tree to be categorised as a veteran, it should primarily have key decay features (including branch death or hollowing) and such features should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality). NPPF glossary states that a veteran tree does not need to be old enough to be ancient but does not define any specific size or age criteria to be met. However, it is our interpretation of the guidance, that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop.

The ATF therefore interprets the guidance to mean that trees which have the appropriate key decay features and are also mature or ancient should be considered as irreplaceable habitat and are the trees to which the policy in para 175c of the NPPF applies.

We strongly disagree with the categorisation methodology used in the tree survey. The first step of the applicant's tree consultant's methodology is to eliminate trees which do not have a "very large girth" before consideration of veteran characteristics. In our view this step is not justified by NPPF or other government guidance.

It is our view that at least two trees should be re-categorised as irreplaceable veterans and protected from harm by appropriate buffer zones. They are the mature trees numbered T3010 and T3014

The Tree Survey states that T3010 is mature tree and has "Fistulina hepatica fruiting body on root buttress at ground level east. Laetiporus sulphureus on old branch loss wound at 2 metres south. Numerous habitat holes within branch structure indicating heartwood fungal decay is well progressed." Decay or hollowing evidenced by heart-rot decay fungi is a clear criterion for veteran

categorisation and the applicant's tree consultant accepts this too. Although it is the view expressed in the tree survey that this tree may not survive long term, there is no indication why it is judged not to be able to survive long-term nor what time period that might be. There is no reference to life expectancy/longevity of the tree in the NPPF and therefore this should be disregarded in categorising a tree as a veteran. The extra protection that a buffer zone would provide, and should be allocated to this tree, would mitigate the possibility of deterioration resulting from development pressures - the very purpose for which it is intended. According to Standing Advice the Buffer Zone should be "at least 15 times larger than the diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter." Due to the proximity of this tree to proposed buildings the Buffer Zone may need to be greater than the minimum to avoid future intervention on the grounds of risk.

Tree number 3014 is recorded as OM/over-mature in the survey. It is recorded as having a stem diameter of 930mms and in the Raven assessment as 148 years old and not of an 'age or size to merit veteran descriptor'. We assume the OM label is a error. However, it is recorded as mature and having "bark wounding after historic lightning strike seen as broad tongue of bark loss from ground level south extending into upper crown structure, exposed and desiccated non-functional heartwood within the affected stem section comprises large volume dead wood Scattered dead wood and smaller distal decline." It is quite clear from this description and images on the Ancient Tree Inventory that the trunk of this tree is hollowing and has a large volume of deadwood in the trunk. This tree definitely has substantial and long-lasting veteran characteristics which accord with Standing Advice, it is mature and therefore is a veteran tree and should be given proper protection by an appropriate Buffer Zone.

Other mature trees on site may also be veteran trees but we do not have enough information on which to confirm their status but the LPA must be assured one way or another. The Ancient Tree Inventory is a citizen science project and has not required surveyors to assess trees according to NPPF as it started in 2005 which is well before the planning policy changes in 2018. The tree records on it however are good indicators of whether trees are ancient or veteran. For example, T3015 is listed as a veteran on the Ancient Tree Inventory and the record states that it has hollowing branches - substantial enough features on such a large tree to be good veteran characteristics. In addition, the Tree Survey, provided with the application, confirms that there are "large dead limbs scattered through the crown". Dead branches are given as a key veteran tree criterion in Standing Advice. It is very likely that this mature oak is a veteran for the purposes of NPPF and therefore should be given the protection of an appropriate buffer zone.

We would strongly recommend that the trees on site are resurveyed to identify whether other veteran trees have been overlooked.

Annex 1: The Ancient Tree Forum's interpretation of the application of National Planning Policy Framework's protection measures for ancient and veteran trees.

The National Planning Policy Framework (NPPF) in England refers to ancient and veteran trees in three places:

1) in Conserving and enhancing the natural environment document, para 175c:

development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;

2) and in Annex 2: Glossary:

Ancient or veteran tree. A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees

are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

**Irreplaceable habitat:** Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees,...

In terms of applying the NPPF to a development proposal and to relevant trees, the first step must be to identify if a tree is ancient or veteran. The glossary, to be used in this context, describes three characteristics i.e. age, size and condition, which contribute to the stated values of biodiversity, cultural and heritage value of both ancient and veteran trees. There is no guidance on the parameters of age (except that veterans can be younger than ancient trees), or size or the meaning of condition.

In relation to ancient trees, the ATF considers ancient is a life-stage indicated by the chronological age of the trunk, using trunk girth only as a guide. Trees in this ancient life-stage usually also have well-developed key veteran decay features as a consequence of ageing. It is ATF's view that all ancient trees are exceptional and irreplaceable for their cultural and heritage values, but specifically, for the application of NPPF policy 175c, they all have irreplaceable habitat.

In relation to veteran trees, the NPPF glossary only distinguishes by age those trees that 'are not old enough to be ancient, but are old relative to trees of the same species.' Planning Policy Guidance (2019 and FC & NE Standing Advice (2018) give some further guidance in relation to age (see bold below) and also condition (see underlined below):

**PPG:** Ancient trees are trees in the ancient stage of their life. Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.

**Standing Advice:** A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity

Both of the above documents provide examples of relevant features relating to condition i.e. branch death and hollowing. But, neither these nor the NPPF glossary, give guidance or information on the amount, volume or quality of these features. In line with the available guidance, the ATF consider, that a tree to be categorised as a veteran for the application of NPPF policy 175(c) should have key decay features (including branch death or hollowing) which should be substantial by volume (in proportion to the size of the tree), long-lasting and/or significant (in terms of quality).

For a tree to have developed decay features of branch death or hollowing which could be judged to be irreplaceable habitat, it will usually be in either a mature or ancient life-stage owing to the time taken and complexity of the habitat to develop. Threshold dimensions for veteran characteristics are recommended in the Veteran Trees Initiative: Specialist Survey Method but these may not be appropriate for all species of tree, especially those of a smaller stature (Fay, N. and de Berker, N. (1997): Veteran Trees Initiative: Specialist Survey Method. English Nature, Peterborough, UK). For example, in terms of dead wood in the crown of the tree the unit of value is "each 1m length over 15cm in diameter".

According to the glossary, a veteran tree does not need to be old enough to be ancient. However, it is likely that for the condition of the tree (decay features of branch death or hollowing) to be judged as irreplaceable habitat, a veteran tree will usually be in a mature life-stage.

In conclusion

All ancient trees of whatever species or size should receive the level of protection stated in para 175c.

Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

Tanglin  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 16th June 2020

I am writing to OBJECT to the latest application for the development of land adjacent to Oakhurst Rise.

I object on three primary grounds;

- The negative effects on the local community of Oakhurst Rise in particular, and the Ewens Farm estate in general, caused by a permanent rise in traffic, increased risk of flooding, and the greatly reduced chance of a doctor's appointment and loss of their quiet space due to increased noise caused by 43 new families, their friends, visitors and additional businesses run from this new site, which cannot be underestimated
- The loss of the current use of the site for recreational and educational use. These green spaces within the town's boundaries become even more important as the development of green-field sites continues unabated
- There is actually no necessity to develop this site. Draft proposals to build a new community/village to the west of Swindon Village comprising thousands of homes - a significantly large number of which will be affordable - should be fast-tracked by the Council who should coordinate with Highways for England to ensure that this plan is delayed no longer.

The fact that the developer is applying again after two failed attempts and a damning refusal at Appeal proves, if proof were needed, that this application is driven purely by self-interest and an attitude of "build at any and all costs", regardless of any and all objections made by the local community, so as to recoup the losses incurred thus far by previous failed applications.

4 Tivoli Walk  
Cheltenham  
Gloucestershire  
GL50 2UX

**Comments:** 24th June 2020

I would like to support this application. Cheltenham is desperate for more homes, especially in the Charlton Kings area. It will provide opportunity and progression for the young, families and the older generation. The demand for private and affordable homes is very strong, and many hard-working people are deserving of their chance to have houses in this area.

There are no valid reasons for this application not to be approved. The school and the landowners require the application to go ahead. The school can improve its facilities and sort out needed maintenance. There is actually a net bio diversity gain if the site is built. The attenuation

system will reduce the flood risk as it captures and stores flash flood rainwater, and is a system which is needed far more in Cheltenham due to rises in rainwater volume from global warming. Also, with the local and national economy in pieces, the House Building Industry is vital in the recovery. These houses need to be built, to display that Cheltenham is intent on improving the lives of young people, while creating more employment and future progression.

2 Norwich Drive  
Cheltenham  
Gloucestershire  
GL51 3HE

**Comments:** 30th June 2020

I wish to support this application specifically assisted housing.

Houses in Cheltenham is expensive. I had personal experience when my children were trying to buy and ended up having to leave Cheltenham

The government are about to put forward a development plan which this would fit well in.

Ridge and Partners  
Regent House  
Rodney Road  
Cheltenham  
GL50 1HX

**Comments:** 2nd July 2020

Letter attached.

154 Gloucester Road  
Cheltenham  
Gloucestershire  
GL51 8NR

**Comments:** 6th July 2020

Seems to be a very good idea providing essential private and affordable housing whilst also providing a financial boost for the school

75 Drayton Gardens  
London  
SW10 9QZ

**Comments:** 14th July 2020

Nice looking houses in a place where I would want to move to and live and bringing up my family

Flat 13  
Osborne Lodge  
99 The Park Cheltenham  
Gloucestershire  
GL50 2RW

**Comments:** 20th July 2020

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I have learnt that planning will have a disastrous impact on wildlife in the region which is unacceptable. In the world of increased sustainability, this will reflect badly on Cheltenham.

Stanley Park  
Selsley  
Stroud  
GL5 5LE

**Comments:** 22nd July 2020

I believe that this is a good scheme - which should be supported - to provide more housing which Cheltenham needs, especially in Charlton Kings (where I lived for 20 years).

40 Pilley Lane  
Cheltenham  
Gloucestershire  
GL53 9ER

**Comments:** 16th June 2020

Due to lack of affordable housing I have had to move back to my parent's home, so it would be great to have the opportunity get on the property ladder in such an area.

26 Hatherley Court Road  
Cheltenham  
Gloucestershire  
GL51 3AG

**Comments:** 22nd June 2020

More affordable housing needed in Cheltenham.

Highclere  
Cirencester Road  
Birdlip  
GL4 8JL

**Comments:** 23rd June 2020

- 1) Cheltenham desperately needs decent homes for many people (both able and disabled), the young, families and the old/infirm, not least in Charlton Kings where the demand for both private and affordable homes is both incredibly strong and unsatisfied. This development will deliver in short order 25 private homes and crucially a mixture of 18 affordable homes, to the approval of at least six Housing Associations. The application is supported by the CBC Planning Department.
- 2) We all understand local residents objecting, no one likes change, however they have their houses and are attempting to stop other people just as deserving having theirs, in affect the well-heeled objectors are attempting to pull the "housing ladder" up behind them!!!!.

This is a must for cutting down commuting distance to work and as I understand it the school could do with the money made from the sale of the land to improve the school facilities.

1 St Margarets Road  
Alderton  
Tewkesbury  
Gloucestershire  
GL20 8NN

**Comments:** 29th June 2020

As a 22 year old graduate engineer looking to venture into the housing market, it is clear the desperate lack of affordable housing within the Charlton Kings area, as highlighted in the local plan. This development offers 18 new affordable houses to enable people like myself a genuine opportunity at entering the housing market which is currently as difficult as ever. Also, as an engineer, the idea that the development will propose a flood risk 'downstream' is far from the case. Modern attenuation systems are in high demand on a national scale, due to the increase in frequency and severity of rainfall events due to anthropogenic climate change. This development offers a good opportunity to add in this needed attenuation systems to the benefit of the local community.

Westwell, Main Road  
Shurdington  
Cheltenham  
GL51 4US

**Comments:** 2nd July 2020

Cheltenham needs more affordable homes and in all the different areas of Cheltenham.

Brookford cottage  
Shipton Oliffe  
Cheltenham  
GL544JF

**Comments:** 4th July 2020

As we all know affordable housing is desperately needed, this is a great opportunity for this to happen.

I think it will be a massive financial benefit to St Edwards School and long term guarantee/secure there future, this would also be the case for some of the businesses at six ways, some of which have struggled for years, this would definitely be a bonus for them and more houses/people near by can only help and add to these businesses survival.

The wildlife will greatly benefit and improve there, which too will be a huge value to the pupils at the school,

The uncontrolled flood risk which is currently there will be controlled and massively reduced.

7 Naseby House  
Cromwell Road  
Cheltenham  
Gloucestershire  
GL52 5DT

**Comments:** 7th July 2020

Cheltenham is in desperate need of affordable housing for young, families and the old/infirm, especially in Charlton Kings where the demand for both private and affordable homes is both

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incredibly strong and unsatisfied. This development will deliver in 25 private homes and crucially a mixture of 18 affordable homes, to the approval of at least six Housing Associations. I can't stress how much the need The application is supported by the CB council Both the School and the landowners, both. CharitableTrusts, require the planning

Wyndways  
104 Charlton Lane  
Cheltenham  
Gloucestershire  
GL53 9EA

**Comments:** 7th July 2020

The key issue for my support is the construction of 18 affordable homes for the local people of Charlton Kings, who are currently finding it difficult to find affordable housing in an area where many grew up. In turn as their parents grow older and need support and care , this part of the development will allow families to offer support in close proximity.

Change is never well received and because of the site of this development more so , in turn with no impact on the running or the facilities of St Edwards school , it has plenty of positives to recommend it .

43 Hanover Court  
Elkstone Close  
Worcester  
WR4 9XH

**Comments:** 14th July 2020

I have no objections to this planning application.

37 Salix Court  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3WH

**Comments:** 8th July 2020

Always good to see more affordable homes, and any extra business for local trades will certainly help particularly in the current climate

49 Moorend Park Road  
Cheltenham  
Gloucestershire  
GL53 0LA

**Comments:** 14th July 2020

Any initiative which has the potential to reduce flood risk to property going forward can only be of benefit to individual homeowners and the wider community. This is certainly an issue which is likely to increase over time, with the climate becoming wetter and warmer.

In addition, particularly in the current climate, it would seem prudent to build affordable housing, particularly in an area that sees consistently high demand for housing.

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Finally, as an ex-St Edwards parent I would like to support this application as it would afford the school the opportunity to improve facilities for the benefit of the pupils.

58 Alfred Rd  
Alfred Road  
Feltham  
TW13 5DJ

**Comments:** 22nd July 2020

We would be very interested in moving back to this area if affordable homes such as those proposed were available.

37 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NL

**Comments:** 6th May 2020

I wish to object to this application on the following grounds:

- (a) Roads - I don't think that the roads around the site will support the likely number of vehicle movements that 43 more dwellings would generate. They are narrow and are already dangerous for motorists, pedestrians and cyclists, with cars parked on both sides in places, blocking sight lines and narrowing the roads still further. There is no reason to believe that the proposed development would have fewer cars per dwelling than the surrounding area (in spite of the generous offer of £750 per dwelling for electric bicycles...). For that reason, access and movement around the proposed development seem unlikely to be as good as described in the Gloucestershire Highways Development Management report that accompanied the most recent previous application (ref: B/2018/041670 ), even taking into account the fact that fewer dwellings are being planned. I would not want to be an ambulance driver trying to access the top of Oakhurst Rise in a hurry at the moment, never mind with 43 more dwellings' worth of cars moving around in the area.
- (b) The same report describes the site as being 'accessible to high quality public transport'. Any form of halfway decent public transport is only so accessible if you are a good walker - the hill approaching the site is steep and, in winter, treacherous (not gritted). The buses that actually run through Ewen's Farm are infrequent - describing them as 'high quality public transport' is imaginative in the extreme. The B bus (on the London Road) is better, but what the impact of COVID on local public transport will be remains to be seen. I realise that this is speculation, but I will be surprised if the B bus returns to pre-COVID levels of regularity.
- (c) Accessibility to local amenities is also only available to the fit or to those with cars - they are all at the bottom of the self-same hill - or further away, at Oakley!
- (d) The ecological survey of the site suggests that replanting should be 'native species'. That's all well and good, but at the end of the day what people plant in their own garden can't be controlled - changes to the amount of water in the soil and to the chemical balance of the soil could easily endanger the ancient trees and hedgerow that are primary points of interest on this site.
- (e) Flooding - I understand that the area is already at risk of flooding. Concreting over yet more land, and adding further waste water to the drains in the area, is only going to make that worse.

11 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

**Comments:** 8th May 2020

I am a council tenant next to Oakhurst Rise. The meadow has been an integral part of my community life, with my son winning his gold medal for cross country there. And respectfully recording the flora and fauna within this area and the unique symbiosis of this oasis nestled in an urban area, which makes it unique. My life times work with ecology and it's health importance, sees me as a Qualified Hedgehog first aid person, years of experience at vale wildlife hospital as a volunteer, badger conservationist and hedgehog conservationists and wildlife gardener. It has never been more imperative at this crucial time, to acknowledge the importance of preserving nature and it's health, that working with David Attenborough's program is high on my agenda to keeping this space for the natural world to continue to flourish, with an ancient badger sett, a healthy deer population, red kites nesting to name but a few of the local residents here, who's ancestors have been here since medieval times and before. I ask that great consideration is given over to a healthy wildlife population, who in truth will not be able to deal with being displaced. I monitor the badgers, who are a frequent visitor to my garden as well as hedgehogs, foxes and birds of prey who all visit me from the meadow. On a practical side, my home has been under pinned due to subsidence, and flooding, but will leave that to the experts, high lighting a on going problem. Please consider leaving this ecological wonder to the future of our children, the health towards our planet and consider not leaving relegating it to history in favour of a concrete, and lifeless wonder of what use to be. Thank you

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

**Comments:** 21st May 2020

Letter attached.

32 Barbridge Road  
Cheltenham  
Gloucestershire  
GL51 0BX

**Comments:** 12th June 2020

This scheme ticks all the boxes in terms of policy compliance. Cheltenham and especially Charlton Kings need the homes so hopefully the nimby's won't succeed in stopping these desperately needed houses.

Viking  
Walton Lane  
Bosham  
PO18 8QF

**Comments:** 12th June 2020

I no longer live at the above address but have been lodging in Ashley Road (GL52) during lockdown and have walked endless Covid-miles around the surrounding area and the site. I moved out of Bosham prompted in part by the ruination of the area by a relentless series of local planning applications by well-heeled developers which took up a disproportionate amount of cash-strapped planners' time and eventually led to their capitulation - I trust CDC are made of sterner stuff.

There is no evidence that these applicants have any interest in or understanding of the site other than for short term material gain; if the site with outline permission were land-banked, any personal assurances/statements of intent would of course be worthless and public trust in the allocation of affordable housing is long gone; gaming of the system with secret 'viability assessments' has seen to that.

Repeated inconsistencies in the supporting documentation suggest at best incompetence, but possibly bad faith? In the Design and Access Statement, the applicants claim that their design 'respects the urban characteristics of the vicinity.' Later on in the same document they promote their sensitivity to the 'parkland setting'... with plans for post and rail fencing. (The displaced badgers would appreciate that - more gardens to dig up but they are savage if threatened - a pet dog or cat would stand no chance; something that would probably not appear in sales promotion for houses on the site? )

The description of the site as 'unkempt grassland' is presumably meant to disparage; it shows a complete lack of understanding. The extraordinary range of flora and fauna thrives on this site precisely because it is not cultivated, and the carbon sequestration that the grassland and trees quietly get on with should be treasured in a post-Covid world where air-quality will be of paramount importance. The air quality on London Road/Sixways is below standard at peak times; this development would exacerbate the situation.

As for the single attenuation pond (not ponds as stated in the text of the application), its siting as shown on the latest plan beggars belief; on clay subsoil with nearby houses in Charlton Court Road having already experienced historical movement? On the boundary with St.Edwards School, downhill of the site, where surcharged water will flood? A planning authority has a statutory duty to cause 'no unacceptable harm to local amenity including the amenity of neighbouring occupants' and must 'ensure that the flood risk is not increased elsewhere'. Add to that the civil liability set out in Kane vs New Forest District Council: (CA June 2001) where the Court of Appeal decided that NFDC could not shelter behind technical compliance with planning law in order to evade normal civil liability, and CDC should be rightly concerned. They have been alerted to flooding issues, particularly of unpredictable springs, in normal weather; there is no evidence that 'normal' will be the pattern for the foreseeable future. Equally important are the real difficulties of residents in Oakhurst Rise with regard to the proposed access road which by any reasonable view is difficult in normal conditions and downright dangerous in extreme weather (the inspector described it as 'tortuous'). No amount of delegation or desk-top assessment can remove that knowledge from the planning authority or erase their ultimate responsibility.

This site would be expensive to develop, very expensive to develop well. With mounting costs (and the possibility of more - (judicial review? Another appeal?) the prospect of providing housing that fulfils a local need diminishes, assuming that was ever a genuine intention.

60 Mendip Road  
Cheltenham  
Gloucestershire  
GL52 5EF

**Comments:** 18th June 2020

Best schools in county but catchment area is currently too small due to lack of housing. New affordable housing needed.

Hillside  
Undercliff Avenue  
Cheltenham  
Gloucestershire  
GL53 9AA

**Comments:** 23rd June 2020

I fully support this Application as it clearly meets all Council Guidelines and Policies.

There is a particular need for affordable homes in this area of town and opportunities of this nature are rare so the Council must take advantage and follow the recommendations of its Planning Officers by GRANTING PERMISSION.

The Applicant has addressed previous concerns and no reason for Refusal on Planning Grounds.

28 Robert Burns Avenue  
Cheltenham  
Gloucestershire  
GL51 6NT

**Comments:** 1st July 2020

I am writing to let you know my objections to the building of forty-three houses, adjacent to Oakhurst Rise.

The main reason for the objection is the threat to the wildlife on the land. Any sort of building will wipe out protected species as bats, newts, slow worms and adders. Also a lot of bird species will be lost. Old oak trees and hedgerows will go or be damaged. Also the organic meadow will be lost. Having this wildlife environment near or in an urban area is very important for it's wellbeing.

There are lots of reasons the planed development is not good for this area, flash flooding and traffic impact. Also impact on GP surgeries and schools.

We only hope the Planning Committee do the right thing and not let this development go ahead.

12 Malleson Road  
Gotherington  
Nr Cheltenham  
Gloucestershire  
GL52 4ER

**Comments:** 18th June 2020

I have been waiting to buy a new house in this area for some time now and there is nothing of any quality available. This will make a fantastic place to live for a lot of people and is exactly what the area needs.

Valley View House  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 24th June 2020

## Page 207

This is a long awaited and needed development that includes valuable affordable homes. This development is supported by the Cheltenham Borough Council. Environmentally this development will reduce the risk of flooding to the homes down stream. Also environmentally many trees will be planted. There will still be a lot of open space.

Many of the objectors who are living around this site are in very comfortable properties and may be looking after themselves rather than thinking of helping the wider community.

Having the support of the CBC is so important. If this has to go to appeal again it is the local tax payers who will have to subsidise this massive cost - more people who could potentially lose out.

37 Pegasus Gardens  
Quedgeley  
Gloucester  
GL2 4NP

### **Comments:** 10th July 2020

I would like to object to this application for outline planning permission on the land adjacent to Oakhurst Rise for the following reasons:

Oakhurst Rise has a very steep gradient which in the winter months becomes very icy and almost impossible to use for the current residents, luckily due to the fact that most of the current residents are retired this doesn't pose too much of a problem, however if you add another 43 dwellings aimed at families and young people most of whom will need to drive out down the steep, narrow road of Oakhurst Rise at least once a day I believe this will cause more accidents along this road. The increase in traffic as most of these new dwellings will have 2 or more cars will change the currently very quiet and peaceful road to a busy and noisy road and cause chaos as it is a very steep, narrow and twisty road with very little opportunity to allow cars to pass side by side, the entrance to Oakhurst Rise is practically a blind entrance and this has to be taken into account.

Due to the steep gradient of Oakhurst Rise it is unlikely that many people will choose to walk or cycle up and down it there is very limited public transport in Ewan's Farm currently so again this is not likely to encourage people to use this method of transport therefore more vehicles is the only viable option for most of the potential residents meaning that there will be a vastly increased number of vehicles using Oakhurst Rise which was only ever designed for the small number of bungalows in the street currently, I believe that this development would bring between 75 and 100 more vehicles along Oakhurst Rise everyday excluding deliveries not a viable option really the road won't be able to cope with the increased traffic.

There is only one road in and out of this proposed development so all construction traffic will be using Oakhurst Rise which currently even the ambulances struggle on occasion to access due to the narrowness of the road.

All the utilities will have to come through Oakhurst Rise causing further disruption to the residents.

The wildlife on the site currently will be lost during the building stage and won't have homes to return to once work is complete. My understanding is that there is currently a badger sett on the land which they intend on removing and relocating the badgers too this is not ideal. There are also adders, slow worms, deer and many species of birds that nest and feed on the land many of which will be lost forever.

I am all for providing affordable houses however this is not the place for it.

5 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

**Comments:** 16th May 2020

I am writing to object to the plans as they will have considerable impact on the road - Oakhurst Rise which is very steep and inadequate for the increased traffic.

As well as creating the issue adjoining Beaufort Road which is already a problem for the current residents as it is a tight corner that joins the heavy traffic that runs through the estate.

We are also very concerned regarding the wildlife that this will impact that live there and have done for generations.

Glenwhittan  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 22nd May 2020

I write to object to the above planning application, on the grounds of the serious damage it would cause to part of a unique landscape - the Cotswold escarpment; in line with comments submitted on 20th March 2017 to the Cheltenham Plan (part one) Public Consultation; and for other reasons, relating to environment and wildlife habitat and also in respect of the proposed access.

Landscape

The first objection is that the application would allow damaging development and construction work on high ground forming part of the Cotswold escarpment. Ground contour levels for the site rise from about 100m AOD at the south end of the site, to about 125m adjacent the rear of Birchley Road properties, on the north side of the site; whereas almost all major development in Cheltenham over the last 100 years or so has been limited to ground levels of about 105 - 110m AOD. The site is not a non-descript field in Gloucestershire: it is part of the Cotswold escarpment. As proposed in the comment for the Cheltenham Plan: Public Consultation, there should be no development on ground above 110m, in order to protect the escarpment; which, from south of Gloucester to the north of Cheltenham (past Prestbury, Bishops Cleeve, Woodmancote, Oxenton, Teddington), remains a largely undeveloped, unspoiled landscape of great natural beauty.

The only major development on the east side of Cheltenham is Battledown, which was planned and laid out about 150 years ago; with the significant requirement that every property should be sited on an half acre plot. This allowed most of the properties built to be planted with major trees, so that it is now visually a green tree-covered landscape with many properties part hidden when looking from the west (Gloucester, Staverton, Churchdown, Tewkesbury) eastwards. The properties proposed for the Oakhurst Rise development are generally on plots of limited size, which will not allow the planting of large trees (because of the disruptive effect they would have on the properties themselves).

In this sense, the proposed development, with houses on ground rising to about 125m, is as undesirable and damaging to the landscape as development of the middle slopes of any hills, escarpment or coastline would be. It would also set a terrible precedent for higher level development of the south side of the existing village of Charlton Kings, below Daisybank Road. Regarding levels, a limit of 110m would approximately match the extent of recent development on

the south side of Charlton Kings: there is a spot level of 109m at the top of Sandy Lane, near Southfield Manor. Adjacent the Oakhurst Rise site, the ground level round the highest of the school buildings is about 108m.

### Environment and Wildlife

This problem with the proposed development is compounded by the planned removal of parts of a major old hedgerow, which has developed over the last century at least into an area of wild woodland, which extends to an area of about 4,000m<sup>2</sup>, about 1 acre. As a consequence of its age and size, and its continuity from the north to the south of the site, across ground levels from about 125m to about 100m, at present it shelters, and provides a wildlife corridor for foxes, deer, bats, birds, especially owls and wood-peckers, a wide variety of small mammals and reptiles (newts, snakes and slowworms), and butterflies and insects: some of which wildlife is rarely seen elsewhere, or is documented as rare. It is proposed that the section between about contour levels 115 and 120 would be removed to make way for the access road and housing. This would destroy the wildlife corridor.

Near the north end of this woodland area there is a very large veteran oak tree (tree T8 on the original tree survey, with a girth of about 5.5m). This tree requires at least the detailed protection measures set out in BS 5837 (Trees in relation to construction) including a construction exclusion zone; (as required in cl. 3.1.2: to be established "before works commence on site (which) is essential as the only way to prevent damage being caused to retained trees by operations in their vicinity"; (such 'damaging operations' to be prevented would include any construction or arboricultural works within the exclusion zone).

There is a second small wild wooded area about 30m to the east, about 600m<sup>2</sup> in area, on high ground (levels about 121 - 124m) on the north side of an existing large badger sett. It is proposed that this is to be removed entirely, including the badgers.

There is really no planning or intellectual argument to justify destruction of wild woodland, in the absence of confidence in the developer's willingness and determination to protect important features of the existing environment as they are now. The developer's justification is that many of the individual trees to be removed are not of specimen value, not being individually planted and nurtured, i.e. being wild; overlooking the fact of the unbroken length and size of the woodland area, that can be seen for miles around. Over at least the last century this woodland has become home to wildlife, and a wildlife corridor in a natural environment without any human interference: the adjoining meadows are mown once a year, about a day's work with a tractor.

The objection to the Developer's proposals, in relation to existing mature areas of trees forming woodland, is supported by another recommendation of BS 5837: Trees in relation to construction: cl. 4.2.4: "Trees forming groups and areas of woodland (including orchards, wood pasture and historic parkland) should be identified and considered as groups ..... particularly if they contain a variety of species and age classes that could aid long term management. It may be appropriate to assess the quality and value of such groups of trees as a whole, rather than as individuals." That recommendation is reinforced strongly when the area of woodland is also home to a wide variety of species of wildlife, as in this case.

Furthermore the Office for National Statistics is now mapping and valuing environmental assets as part of a government project to 'improve understanding of our natural capital': (Report: The Times: July 23rd, 2019); which continues: 'It estimated the worth of Britain's green spaces...in terms of carbon sequestration (the ability of vegetation, especially trees, to absorb carbon dioxide), the removal of air pollution from the atmosphere, and recreation. .... Valuing natural capital has become a critical issue because, without a price, markets automatically treat the environment as worthless. Costing natural services helps to correct that mistake and improve decision-making.'

Though the main reasons for objections on these grounds, (and therefore for rejection of the application), are first, preservation of irreplaceable landscape and wildlife undisturbed, and second, retention of woods and trees as by far the best method of carbon sequestration currently and definitely available, (all within a thriving community); the retention of natural habitat and ecology is also of great value, especially when available to a school, and through the school to other young people.

Finally, a recent 'Nature Notebook' from The Times (March 2019) reports the typical decline in abundance of wildlife resulting from tidy and managed development in an English county:

"Visiting my father, who still lives in the village where I grew up, I was struck by how busy the roads were, how tidy and managed it seemed compared with the rambling, slightly ramshackle place I remember - and how little space was left for the natural world. Everything that wasn't built on was strimmed and pruned, every green glimpsed was a monoculture paddock or tightly manicured golf course, the tangled woods I once played in tidied and fenced off for paintball. It looked pretty and prosperous, but as money poured in to create this ..... the wildlife was quietly forced out.

In the past thirty years 11.5% of the county's plants, birds, invertebrates, fish, reptiles, amphibians and mammals have become locally extinct, a far higher figure than the national rate of 2%. A further 4.4% are threatened with extinction. There's no agribusiness or heavy industry to blame; ... but the area ranks in the top 25% of England's most densely populated counties .... Nature needs untidiness to flourish; it must be allowed to be self-willed, not made to look like something from a glossy magazine. 'O let them be left, wildness and wet; Long live the weeds and the wilderness yet.'

If development goes ahead there will be ecological surveys, and 'biodiversity offsetting' should be put in place, which can mean little more than planting non-native saplings in place of mature native trees. But some site-faithful birds such as sparrows (which are in decline) rarely move more than a kilometre from their place of birth; the loss of suitable breeding habitat for a couple of seasons can wipe out a small colony. This is how we lose our wildlife: bit by bit."

### Access to site and Transport

The road proposed for access to the site, Oakhurst Rise (OR), is seriously inadequate in several ways. The road design standards required for the access road are set out in at least two relevant documents:

Glos. C. C.: 'Highway requirements for development' (GCC:HRD)

Vehicular Access Standards: Development Control Advice Note 15, 2nd edition; produced by the Planning service, an Agency within the Department of the Environment. (The purpose of this Advice Note is to give general guidance to intending developers, their professional advisors and agents on the standards for vehicular access.) (VAS)

In addition, the Construction (Design and Management) Regulations 2015 are relevant to all aspects of the proposed development; particularly Regulation 27 Traffic routes. (CDM Regs)

- The road gradients (of OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives 8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that

'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

- The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.
- The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m.

In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

- oCurrent dwellings: Ewens Road 19  
Pine Close, OR 43  
Beaufort Road 41
- i.e. the total number of dwellings: 103 at present, would increase to 146.
- Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.
- All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).
- In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'.

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The CDM Regulations are relevant in particular because of the very significant variation of the actual parameters of the access road (OR) from reasonable road parameters (particularly gradients) recommended in the appropriate standards (VAS or GCC:HRD). As an example, the OR gradient up to the junction with Beaufort Road is about 13.5%, whereas the VAS standard requires that: 'the gradient shall not normally exceed 4% over the first 10m outside the public road boundary ..... The remainder should have a gradient less than 10% so that it may be used during wintry weather.' That discrepancy, by such a large margin between actual gradient and DOE recommended values and the absence of a dwell area, implies a potentially serious hazard, with the associated risk certainly including a traffic accident or one involving a vehicle with a pedestrian or cyclist.

Under the Regulations, it is one or more of the CDM dutyholders (the Client, the Principal Designer and other designers, and the Principal Contractor) who are responsible, when preparing or modifying designs for the project or development as a whole, for identifying, eliminating or controlling foreseeable risks, by following the general principles of prevention set out in the Regulations. That process (a fundamental part of the project design) should have been started before the first planning application was made. In persisting with what appears to be a completely inappropriate access to the site, there appears to be a failure to comply with the CDM

Regulations, which are statutory provisions; in which case, the present Application should be rejected on these grounds alone.

**Comments:** 6th June 2020

Further to our comments objecting to the development, forwarded on 21st May 2020, we write to amplify these comments on two points:

Access to the site: Relevance of published standards, and of the CDM Regulations:

The road proposed for access to the site, Oakhurst Rise (OR), is seriously inadequate in several ways. The road design standards required for the access road are set out in at least two relevant documents:

Glos. C. C.: 'Highway requirements for development' (GCC:HRD)

Vehicular Access Standards: Development Control Advice Note 15, 2nd edition; produced by the Planning service, an Agency within the Department of the Environment. (The purpose of this Advice Note is to give general guidance to intending developers, their professional advisors and agents on the standards for vehicular access.) (VAS)

Even if these documents are not followed precisely and in detail they represent a reasonable and objective standard against which any actual proposals can be judged. The inadequacies of OR, as the access road to the site, are set out in our initial comments; and include that the road gradients are too steep, the width of the road is too narrow, and the pavement widths are too narrow.

The CDM Regulations: Reg. 1: These Regulations may be cited as the Construction (Design and Management) Regulations 2015 and come into force on 6th April 2015 .... The duties of the Client (the Applicant for planning permission) are set out in Part 2 (Regs. 4-7). They include the appointment of the principal designer and principal contractor (Reg. 5); whose own duties and roles are set out in Part 3 (Regs. 8-15). The duties of the principal designer are, in turn, set out in Reg. 11; which states (Reg. 11(3)): .... the principal designer must identify and eliminate or control, so far as is reasonably practicable, foreseeable risks to the health or safety of any person .. carrying out or liable to be affected by construction work; ..

In this case, the foreseeable risks arise from the greatly intensified use of the badly laid out road junction (particularly in context of the increased use) of the access road (OR) with Beaufort Road (BR). The access road use rises from serving 24 properties to serving 67 properties, about 180% intensification, when VAS states (cl. 1.2): 'A well designed access is important for the safety and convenience of all road users - those proceeding on the public road (BR) as well as those using the access (OR). So, when the Department considers proposals for a new access or the intensification of use of an existing access , it will normally have a number of requirements to promote safety .... Intensification is considered to occur when a proposed development would increase the traffic flow using an access by 5% or more.'

The existing road junction (OR/BR) is badly laid out by comparison with the vehicular access standards given in VAS (cl. 10.3): 'The gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary ... The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather.' The actual OR gradients are about 13.5%, from very close to the OR/BR junction, increasing to about 15% for the rise up to the site entrance.

In respect of the CDM Regulations, these were foreseeable risks from the first consideration of the development by the Client and principal designer; and if they could not be eliminated or controlled, an alternative access to the site would have been needed to make the development viable under the Regulations.

### Environment and areas of trees forming woodland

BS 5837: Trees in relation to construction: cl. 4.2.4: 'Trees forming groups and areas of woodland .... should be identified and considered as groups ..... particularly if they contain a variety of species and age classes that could aid long term management. It may be appropriate to assess the quality and value of such groups of trees as a whole, rather than as individuals.'

Since much of the discussion about trees, which should be retained and which trees or groups of trees removed, was on the basis of considerations set out in this British Standard, it seems illogical and unreasonable not to consider such groups of trees as a whole, as the British Standard suggests, and as areas of woodland to be retained as a whole: part of irreplaceable landscape and wildlife to be left undisturbed.

1 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

**Comments:** 22nd May 2020

I find myself protesting for the third time with regards to the planning proposal for Oakhurst Rise.

This is a beautiful, organic meadow with ancient oaks and hedgerows. The loss of green fields and a unique habitat will be a threat to wildlife. There are seven species of bats, newts, adders, slow worms, dozens of bird species and a family of deer, often seen in the meadow during the day. There are also badgers, that would not survive if relocated.

The increased risk of flash floods will have consequences for local people, including myself who live below the proposed site.

Local schools are already over subscribed and the local GP surgery has a six year waiting list.

To quote from Planning Committee minutes 19/07/18 "only one access to the site, which is torturous and ridiculous via a windy, congested rat run" Steep gradients, blind junctions and dangers in snow and ice have all been ignored. The junction at sixways is already over capacity and this problem has not yet been addressed. The traffic impact of forty three dwellings (at least an extra eighth vehicles) will be severe.

The local plan has already met the affordable housing need, providing enough housing for the town until 2031.

Until all of these problems have been addressed and the developers have a satisfactory solution, then planning permission must be refused

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 8th June 2020

I strongly object to this current proposal - 20/00683/OUT, for all the same reasons that the CBC Planning Committee cited for its refusal of the previous applications on this site, namely 17/00710/OUT & 18/02171/OUT. This application is merely a further amendment to the previous

applications by the same developers which were comprehensively rejected by CBC twice in the last two years!

All the previous objections and comments from both applications 17/00710/OUT and 18/02171/OUT should still be considered by the planning committee as they remain relevant to this application. From CBCs own refusal decision letter, five key reasons were recorded and a mention was made of the NPPF. None of these reasons have been adequately addressed by the latest application so this application should also be rejected.

With regards to the above concerns it is respectfully requested that planning permission for the above development be refused.

Flat 4  
11 Montpellier Grove  
Cheltenham  
Gloucestershire  
GL50 2XB

**Comments:** 21st July 2020

My objection is that all reasons for the previous refusals of earlier applications are still valid. Nothing has changed so why should this one go ahead? The proposed site is valuable green belt land and is home to a variety of species of wildlife. It is also currently being rented by a local school and is home to several alpacas and hives of bees. It would be unacceptable if this planning application were to be approved.

28 Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AE

**Comments:** 21st August 2020

Letter attached.

54 Fairview Street  
Cheltenham  
Gloucestershire  
GL52 2JJ

**Comments:** 12th June 2020

I find it staggering that this application is still ongoing, given the concessions already made and the urgent need for more affordable housing in the area.

Given the overwhelming support from professional consultees and young, working families, surely at some point the public interest should prevail over the objections of a small minority who are unrepresentative of the local demographic at large.

56 Leighton Road  
Cheltenham  
Gloucestershire  
GL52 6BD

**Comments:** 25th June 2020

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I understand that this proposed housing on this site is contained within the Local Plan.

There is a dearth of affordable housing in Cheltenham in general and most certainly in the Charlton Kings area. Unfortunately young local people can not afford housing in the area they may have grown up in and have to move further afield which is a sad reflection of the cost of properties in Charlton Kings. This application provides 18 affordable homes which would be of great benefit to the area. We need to encourage young people to work and live in Cheltenham for the sake of the local economy and one of the ways to do that is to provide more affordable housing.

The school would benefit financially which could improve their facilities and assist greatly with ongoing maintenance.

The developer has made many concessions to try to accommodate the local objectors but still they object. Is it a case of not in my back yard?

This is not overdevelopment as much green space is proposed along with retaining existing trees and adding to the tree population, which is great.

I believe that planning consent should be granted.

46 The Park  
Northway  
Tewkesbury  
GL20 8RH

**Comments:** 2nd July 2020

There is a massive shortage of affordable homes within the area, this development is a huge step in allowing locals to stay within the area and those who have moved away to return as well as being on the property ladder in a desirable area

Mark Annett & Company  
Hook House  
High Street  
Chipping Campden  
GL55 6AT

**Comments:** 7th July 2020

Having previously worked in Cheltenham in property I can see that there is good demand for this type of development and support the application.

Wistley  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 6th July 2020

I understand that this application allows for the provision of a significant amount of affordable housing to be created. I think it is important that community development promotes the provision of affordable housing to allow for the diversity of need of housing needs in each locality and that applications involving the provision of affordable housing are given the most careful consideration and supported where possible and appropriate.

17 Sheens Meadow  
Newnham  
Gloucestershire  
GL14 1BP

**Comments:** 8th July 2020

Being a grandmother with children with young families of their own I support the construction of new and affordable homes for their generation.

21 Chosen Drive  
Churchdown  
Gloucester  
GL3 2QS

**Comments:** 9th July 2020

I am in whole hearted support of this application. As a number of the dwellings will be supported housing, it will be a great opportunity for youngsters to get on the ladder.  
Great project.

Cedar Cottage  
Brimpsfield  
Gloucestershire  
GL4 8ld

**Comments:** 18th June 2020

I'd like to support this application as it brings some very much needed affordable housing to the area, on a site ideal for development.

18 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

I wish to object to the outline application on the land adjacent to Oakhurst Rise. Our primary concerns relate to infrastructure issues and disturbance to the environment.

The approach to the site along Oakhurst Rise has two steep gradients, two bends and is narrower than roads built today. Of particular concern is the second gradient which has proved dangerous to us on the last three relatively mild winters. On two occasions we have been unable to leave our home by car for a couple of days due to icy road conditions. On one of those it needed the kindness of a neighbour, whose car was fitted with snow chains, to drive us down the hill. On a separate occasion we had to meet a taxi at the bottom of the rise because he was unable to drive to the top. An increase in traffic from the development would therefore increase the risk of accidents thus endangering life in poorer weather conditions. Much more frequently there is already considerable traffic congestion through Ewans Farm in the morning and evening weekday peak periods which would be worsened by additional inflow outflow from the proposed development.

The impact on amenities in the locality would also be worsened by this proposal. Our understanding, from waiting lists, is that there is already pressure on the GP surgery, the dentists and local schools to meet the needs of local residents.

Finally the proposed development would cause considerable loss of habitat for the small gain in housing. Over the lockdown period we have naturally spend a great deal more time in our garden and have seen many different animals entering from the safe haven of the fields adjacent to our property. These personal sighting of fauna have included badger (there is a large sett in the field), roe deer, muntjac, foxes, squirrels, as well as numerous birds including woodpecker, magpie, jay, thrush, blackbird, dunnock, sparrows,nuthatch, chaffinch, pigeon, great-tit, longtail-tit, blue tits, robins, and wrens. When we have walked into the field we have also seen varied flora including oxeye daisies, bluebells, cowslips, champions, oxslips, field buttercups, bugle and alkanet to name just a few of the meadow flowers in this undisturbed haven for wildlife.

16 Bowen Close  
Cheltenham  
Gloucestershire  
GL52 5EG

**Comments:** 2nd July 2020

I would support any building of houses considering the great shortage at this time,common sense must prevail especially round the charlton kings area ,and in any area in Cheltenham.

2 Fairhaven Street  
Cheltenham  
Gloucestershire  
GL53 7PL

**Comments:** 6th July 2020

The most recent landscape plan confirms various benefits for the scheme: low density, open space/wildlife for the residents, and a significant open area retained by the school.

Coupled with the windfall of affordable homes, and financial benefit to the school to reinvest, I am in favour.

3A Oxford Street  
Cheltenham  
Gloucestershire  
GL52 6DT

**Comments:** 18th June 2020

I believe that the planning committee should support this application on the grounds that the site is within the Principal Urban Area, it provides much needed open market and affordable homes within Cheltenham, and Cheltenham is currently unable to demonstrate a 5 year housing land supply.

Garden Cottage  
Park Street  
Cheltenham  
Gloucestershire  
GL50 3NG

**Comments:** 2nd July 2020

I've been trying to move back to Charlton Kings for some time. Affordable housing in the village is really needed.

15 Old Common  
Minchinhampton  
STROUD  
GL6 9EH

**Comments:** 18th June 2020

There is a desperate need and major shortfall for housing and affordable housing in Cheltenham with many people on waiting lists. I also believe that this will be of huge financial benefit to St Edwards which will give them the opportunity of improving their facilities both to those at the school and the community as a whole.

5 The Gables  
Cheltenham  
Gloucestershire  
GL52 6TR

**Comments:** 1st July 2020

This is a sustainable development located within the urban area that provides 43 much needed new homes including 18 affordable homes.

The proposal will also bring huge financial benefits for St Edwards School, which will secure its long-term future as well as providing the means to improve their current facilities, which are enjoyed by other schools and the local community.

84 Clyde Crescent  
Cheltenham  
Gloucestershire  
GL52 5QL

**Comments:** 7th July 2020

I completely support this application as Cheltenham is in desperate need of affordable housing as well as private. Obviously the residents who are objecting this don't want change but they have their houses and therefore stopping other people just as deserving having theirs.

The development will deliver 25 private and crucially 18 affordable homes

The school and landowners are both charitable trusts and require the planning application to go ahead

2 Vineyard Farm Cottages  
Charlton Hill  
Cheltenham  
Gloucestershire  
GL53 9NE

**Comments:** 7th July 2020

It is great to see at last that there could be some affordable housing in Charlton Kings .To give the younger generation the opportunity to hopefully get on the property ladder

Orchard Bungalow  
Little Shurdington  
Cheltenham  
GL51 4TY

**Comments:** 9th July 2020

This development has many merits and I believe should be approved. It delivers 18 affordable homes which are in very short supply in Cheltenham. It will provide jobs and income to the local community which is crucial in these extraordinary times. As a former Whitefriars student I am pleased that it will also provide much needed income to the school.

Montrose  
3a Lime Grove  
Welland  
WR13 6LY

**Comments:** 21st July 2020

We object to this development on the grounds of losing more habitat, this area has a lot of wildlife, badgers, fallow deer, munck jacks, and other species all clammering for somewhere to live. There will be more pressure on the environment with extra traffic, maybe an additional 86 cars using the small roads to gain access to the site, the added problem of flooding, surely there are other "brown" sites that can be used to build more homes without taking away natural habitats for our wildlife.

4 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

**Comments:** 2nd June 2020

Objects

Flat 2  
35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3DU

**Comments:** 6th June 2020

Evidence was taken over 4 days at the planning inquiry only 6 months ago, about why this site was not suitable for development above the allocation in the local plan.

The site is still not suitable for development above the allocation in the local plan.

Please upload my comment to the CBC pages which are not allowing comment.

21 Ravensgate Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NR

**Comments:** 2nd June 2020

There are so many reasons against this development! Already overburdened sewage systems, building on a green space used and loved by locals, issues with the planning application, destruction of protected trees despite wording to suggest otherwise, little thought to eco friendly housing solutions, poor access from an already small and overburdened road and issues with drainage. There are more and I've forgotten them! Please don't allow this development - the space is way too precious.

15 Mandarin Way  
Cheltenham  
Gloucestershire  
GL50 4RP

**Comments:** 17th June 2020

New affordable homes are needed

Greenmount  
12 Christchurch Road  
Cheltenham  
Gloucestershire  
GL50 2PL

**Comments:** 3rd July 2020

I am shortly to move to my registered address in Cheltenham. I noted that there was a revised planning application for the construction of 43 dwellings at Saint Edwards school. Since I was aware of the earlier application I thought it would be appropriate for me to submit my thoughts on the revised proposal.

It seems to me that the applicants have had full regard to the comments of the previous inspector (Mr Sims), insofar as the new proposal provides full and ample screening for the designated heritage assets nearby. The effect of this is that in my opinion the harm to the significance of those assets will be minimal. Even allowing for the fact that there is a statutory requirement to give considerable weight to the protection of historic buildings, I find it difficult to see how This should outweigh the very considerable weight that should be attached to the need for new housing. In this context I note that the latest residential housing land supply report produced by the Borough Council in December 2019, demonstrates that the authority can only supply 3.7 years supply of available housing land which is well short of the minimum requirement of five years availability set out in the NPPF.

When this fact it is taken into account, together with the importance which attaches to the severe economic difficulties caused by the COVID-19 pandemic and the Prime Minister is exhortation is to "build, build, build", I see little reason to withhold granting planning permission for this well design scheme. The additional benefits to be gained from the construction of a significant proportion as affordable housing (especially given the shortage of such accommodation within the borough compared to its targeted requirements), represents a further I see little reason to withhold granting planning permission for this well design scheme. The additional benefits to be gained from the construction of a significant proportion as affordable housing (especially given the shortage of such accommodation within the borough compared to its targeted requirements), represents a further justification for granting pp.

Finally I note that since the last appeal, the Borough Council has produced its local plan which identifies this site as a suitable residential application for a minimum of 25 dwellings. Although the plan is not yet fully adopted its position in the overall procedure leading to adoption suggest that significant weight should be attached to the emerging policies.

Overall I consider that the application should be fully supported and granted planning permission. I would be grateful if you could classify this letter as well as support for the proposals.

34 Wells Close  
Hatherley  
Cheltenham  
Gloucestershire  
GL51 3BX

**Comments:** 5th July 2020

There is a desperate shortage of affordable homes available for young people, affordable homes should not be a privilege but a necessity, earning a decent salary does not come close to being able to put a deposit down and start the process of a mortgage.

These houses would help the school gain valuable funds to improve facilities and to give jobs for the economic recovery of trades people in the area.

16 Landsdowne Rd  
Falmouth  
TR11 4BE

**Comments:** 22nd July 2020

I lived in Cheltenham for 45 years and regularly walked in this area, which is already overdeveloped. The wildlife and ecology of this beautiful area needs to be preserved.

Clovelly  
High Street  
Upton St Leonards  
GL4 8DG

**Comments:** 22nd July 2020

With reference to this planning application for a residential development.

I strongly object to this application.

The main reasons being the effect this would have on protected trees and the absolute devastation of wildlife which is so important to the local community.

8 Detmore Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8QP

**Comments:** 8th June 2020

I wish to add my wife and myself to the list of objectors to this proposed development.

We are particularly concerned about the effect that more housing will have on the already over-prescribed schools and medical facilities in the area.

One day soon we may be living at Home Farm Court - very close to the area under threat.

Two Rivers Housing  
Rivers Meet  
Cleeve Mill Lane  
Newent  
GL18 1 DS

**Comments:** 4th June 2020  
Letter attached.

60 Church Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AS

**Comments:** 8th June 2020

Your website registration has failed twice, so I am writing to you directly with reference to the field for which there are plans to develop this land for housing. This is the field above Oakhurst Rise - between Oakhurst Rise and Ashley Road.

There is a huge diversity of wildflowers and grasses; I've seen roe deer; grass snakes; slow worms; and toad species here. Furthermore, this area has dozens of natural springs welling up in the hill face. I am deeply concerned that if the land gets redeveloped this oasis within Charlton Kings will be lost.

On the basis of wishing to preserve the wildlife both flora and fauna, and the natural structure of the hill and its unique spring water system, I oppose the plans to redevelop this land.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 8th June 2020

I strongly object to this planning application - 20/00683/OUT, outline application for 43 dwellings at Land Adjacent to Oakhurst Rise.

This development proposal is similar to the previous two applications on this site both rejected by CBC in the last two years - 17/00710/OUT & 18/02171/OUT. The scale of the planned development remains completely inappropriate for this site and very much out of character with the local area. The local plan states a maximum of 25 homes should be built on this land. Access to the proposed site is restrictive, with a very steep aspect to the approach and narrow roads that are in no way adequate for such a development. The site is located close to the AONB and is an extremely valuable resource for the school, local community and wildlife. The new documentation does not attempt to address or resolve any of the core issues already recorded by the previous CBC refusal decision regards the previous applications, nor in the many common comments submitted online.

Therefore, it is respectfully requested that planning permission for the above development be refused.

24 Bushel Close  
Cheltenham  
Gloucestershire  
GL52 3NA

**Comments:** 18th June 2020

As a young couple who have lived in the area all of our lives, we have always found that there needs to be more affordable housing in desirable areas. This area is in desperate need of developing to open up more opportunities for the younger generation to get on the property ladder.

50A King William Drive  
Cheltenham  
Gloucestershire  
GL53 7RP

**Comments:** 21st June 2020

This plan would go towards the shortfall in houses in this area.

It has approved in the draft Local Plan

Flat 4  
Cameron House  
Glencairn Park Road  
Cheltenham  
Gloucestershire  
GL50 2ND

**Comments:** 30th June 2020

'Supports' Comments on the CBC web-portal pages, claiming that Cheltenham Borough Council and/or its Planning Officers already support this Application !

One does wonder exactly who told these four different Supporters that the Cheltenham Borough Council, the CBC Planning Department, the Planning Officers and the CBC Planning Committee all support this Application for planning permission.

Most residents in Oakhurst Rise, the Ewen's Farm Estate and the wider Charlton Kings community are under the impression that the Planning Officers / Planning Department do not make up their minds until ALL the evidence has been gathered and ALL the comments have been received -- at which point the designated Planning Officer reviews ALL the data and writes a Report, for review and discussion with the Head of Planning, before deciding whether to recommend Approval or Refusal to the Planning Committee Councillors.

Furthermore, it has always previously been understood that the Planning Committee does not make up its mind whether to Approve or Refuse an Application until it has itself reviewed all the data, received verbal submissions from interested parties and debated the matter fully at a Planning Committee Meeting, after which a Vote is taken.

Is this no longer the case ?

Which Planning Officer or Planning Committee member could possibly have advised the below Supporters that the Planning Officers and the Planning Committee had already decided to

support this Application ? It does seem most irregular and beyond any possible coincidence that four different supporters, living many miles apart, can all have been given this same information.

Valley View House Charlton Hill Cheltenham Gloucestershire GL53 9NE (Supports)

Comment submitted date: Wed 24 Jun 2020

This is a long awaited and needed development that includes valuable affordable homes. This development is supported by the Cheltenham Borough Council ..... Having the support of the CBC is so important.

34 Tommy Taylors Lane Cheltenham Gloucestershire GL50 4NJ (Supports)

Comment submitted date: Wed 24 Jun 2020

The shortage of good quality housing in Cheltenham is acute, particularly in Charlton Kings, where there is a significant shortfall.

The application is supported by the CBC Planning Department.

163 London Road Cheltenham Gloucestershire GL52 6HN (Supports)

Comment submitted date: Tue 23 Jun 2020

I am writing to comment on what I consider a complete scandal by certain residents regarding the above Planning Application and their objections to it. The Carmelite Order is happy with the sale of the land, St Edwards School is happy and will benefit substantially and indeed CBC's own Planning Committee support it

Hillside Undercliff Avenue Cheltenham Gloucestershire GL53 9AA (Supports)

Comment submitted date: Tue 23 Jun 2020

I fully support this Application as it clearly meets all Council Guidelines and Policies ..... so the Council must take advantage and follow the recommendations of its Planning Officers by GRANTING PERMISSION.

62 Albemarle Gate  
Cheltenham  
Gloucestershire  
GL50 4PJ

**Comments:** 23rd June 2020

If approved, this is a much needed addition of 18 affordable houses in Charlton Kings. It will enable the school to invest in much needed improvements and still leave a 4 acre meadow.

29 Pennance Road  
Falmouth  
TR11 4ED

**Comments:** 23rd July 2020

I am moving into the area and have been to see the proposed site. I was concerned when a neighbour spoke about the development about two main issues. The first relates to the roads the roads / additional traffic as all the roads up to Oakhurst Rise and out of the area are packed with cars and cars parked on the pavements, rendering the pavements impassable. Further traffic would be a safety hazard.

Also, having looked at the site on a rainy day, I would question whether the area is liable to flooding and where the water run-off goes.

I therefore object to the development.

Pages  
Chargrove Lane  
Cheltenham  
GL51 4XB

**Comments:** 7th July 2020

I attended St Edwards school and spent many enjoyable days on the sports fields. I am in favour of this application because I think it will benefit and help the school continue to be maintained to a very high standard and looking at the plans, I do not think it will take anything away that is required. I am also in favour of more affordable homes in Cheltenham especially in Charlton Kings which is a very sought after area to live. I think this will help the younger generation and continue to help move Cheltenham in the right direction. I am always concerned around flooding with new builds so am very pleased to hear the attenuation system is being put in place.

1 st georges square  
Worcester  
Wr1 1HX

**Comments:** 14th July 2020

I think it would be a very good development.

Charlton House  
Cirencester Road  
Charlton Kings Cheltenham  
Gloucestershire  
GL53 8ER

**Comments:** 23rd July 2020

The impact on the wildlife will be devastating. Cheltenham is special because of the balance between people and nature, not because it has lots of houses. The long-term impact on Cheltenham itself will also be devastating.

Tall Timbers  
Ashley Road  
Charlton Kings  
Cheltenham  
GL52 6NS

**Comments:** 3rd August 2020

I have just had the opportunity to read the excellent report by the well-respected leading independent UK environmental consultancy Bioscan ([www.bioscanuk.com](http://www.bioscanuk.com)) on the negative impacts on Bio Diversity that would occur if this development were allowed to proceed. It is clear from the report that, with the additional species that have been identified during the last 18 months, the planning authorities should perhaps be considering this site as a Key Wildlife Site of County value.

There are very many reasons why this development should not be permitted but this report provides grounds for refusal solely on its contents.

**Comments:** 12th May 2020

Letter attached.

32 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 3rd June 2020

I strongly object to this planning application for the following reasons :-

- Loss of privacy - we will be overlooked by the development.
- Pressure of traffic throughout the Ewens farm estate and local access roads. These roads are already very busy and frankly dangerous at times, especially during rush hour. The 20mph limit is rarely observed by motorists using it as a rat run from London Road/Hales Road and many cars are parked on the roadsides. It is already hazardous and unpleasant to walk on these streets at busy times.
- The access road in Oakhurst Rise is highly inadequate. The approach is steep, narrow and with limited visibility. It would be dangerous to have an additional 100+ cars using it as an access road. Any attempt to make an access road from Charlton Court Road would also be unfeasible as it would remove essential parking spaces. Some houses have 2 or 3 vehicles. It would create insurmountable problems with parking and congestion. Also, with a very steep gradient, these roads are unusable during icy weather. They are not gritted and are equally unsafe and unusable in icy conditions.
- The density of the proposed development is not in keeping with the area.
- Risk of flooding - the present infrastructure will not cope with the additional runoff water from the site. There are springs and documented flood problems on the site and adjacent to the site. The application does not take into consideration the significant flooding in the surrounding area and downstream in central Cheltenham. Drains in the area already struggle to cope with heavy rain.
- Pressure on local services - doctors and schools. Schools in the area are already oversubscribed.
- Loss of wildlife habitat, hedgerows and trees. Badger sets may be extensive. Deer also inhabit the area, together with bats, woodpeckers and owls.
- Loss of a rich biodiverse site, green space, sports amenity and community amenity to Charlton Kings and Cheltenham..
- The 1984 proposal was rejected on the grounds of drainage for considerably less acreage of development. More recently, Tim Fry had an application for development rejected on the grounds of volume of traffic. This is the very same route people would take to the proposed development
- Detrimental to the visual impact of the town and an unsightly blot on the landscape. The site is visible for miles around.
- Air pollution. The London Road is already cause for concern with high levels of pollution. Yet more cars using the road can only make things worse. There seems to be no plan for traffic impact. The traffic survey taken by the developers is flawed.

- The local plan says a maximum of 26 homes should be built on this land. A forty-three house estate is being proposed in a completely unsuitable location. Such development has been rejected 5 times in 40 years.

34 Sisson Road  
Gloucester  
GL2 0RA

**Comments:** 12th June 2020

This application should defiantly be permitted, it's just NIMBYISM which prevented the last two applications.

young family's like mine are crying out for new and affordable homes in this area.

60 Haycroft Drive  
Matson  
Gloucestershire  
GL4 6XX

**Comments:** 19th June 2020

I strongly support the application. I've been looking to move into the area for some time given the catchment area for some outstanding schools. Unfortunately the availability of houses in the area is in short supply which has made any move almost impossible.

I believe there is a genuine need for this application to proceed.

18 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

**Comments:** 12th May 2020

I strongly object to the new updated planning application for the following reasons:

1. Increase traffic of surrounding areas,
2. Compromised road safety
3. Unsuitable road access
4. Increase risk of flooding
5. Loss of green area
6. GP oversubscribed
7. Schools already oversubscribed

Faringdon  
4 Langton Grove Road  
Cheltenham  
Gloucestershire  
GL52 6JA

**Comments:** 3rd June 2020

I would reiterate the comments I made in connection with the previous application for planning permission.

My main concern relates to the unacceptable increase in the level of traffic through the Ewans farm Estate on to the London Road opposite the Langton. The traffic levels on the London Road at this point are already at unacceptable levels and the increased traffic emanating from any new development within the area will undoubtedly result in increased traffic congestion. Increased traffic will also lead to increased noise levels pollution and disturbance to the residents within the existing residential areas.

The increased levels of residents resulting from 43 new dwellings will require increased numbers of pupil places at local schools which are already oversubscribed and also at the doctors' surgery once again where patient numbers are already at a higher than acceptable level.

Coversdown  
Birchley Road  
Cheltenham  
Gloucestershire  
GL526NY

**Comments:** 20th May 2020  
Letter attached.

98 Colesbourne Road  
Cheltenham  
Gloucestershire  
GL51 6DN

**Comments:** 15th June 2020  
I support this application as I believe this will really enhance the trading potential and income of a large number of retailers at Sixways.

Darien  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PD

**Comments:** 5th August 2020  
Just how many more times are these proposers going to attempt to try and force this application through? Surely the Planning Committee can see that the access via Oakhurst Rise/Ewens Road/Beaufort Road is totally unsuitable. Have they actually inspected this? Are you going to allow Appeal after Appeal after Appeal? I have no personal axe to grind - it's just common sense.

46 School Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8BD

**Comments:** 8th June 2020  
I would like to register my opposition to the proposed development off Oakhurst Drive.

This land should not be developed for many reasons:

Inappropriate use of land for housing due to steep gradient, limited accessibility apart from by cars, increased likelihood of problems with flooding and lack of community infrastructure such as school places and doctors surgeries.

The residents of Oakhurst Rise live in a quiet cul de sac of small bungalows and this would be transformed into a through road to a new estate with multiple vehicles passing through.

The land is a rich wildlife habitat as well as being used for community activities such as forest school, wildlife walks and as a cross country course for multiple schools across the county. The annual bonfire night event welcomes huge numbers and raises a large amount of money for good causes.

Whilst there is of course a need for housing, focus should be on redeveloping brownfield sites rather than removing green areas. Once built upon, these green spaces are lost and this negatively affects the locality. We need to protect these areas from development and ensure more appropriate areas are considered ahead of this land.

Tanglin  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 12th June 2020

Many detailed submissions have already been made by a number of highly qualified experts and professionals OBJECTING to this application, which list in precise detail the various Planning Regulations (NPPF etc) which would be contravened were this application to be permitted. The planning policies contravened by this proposed development cover a large number of areas including, but not necessarily limited to, heritage, access, ecology, flooding and the environment. It is therefore not necessary to repeat all those reasons here, since the Planning Officers and CBC Planning Committee have already received more than sufficient information to require this application to be refused.

However, one area which has not been addressed in such detail is the application of Common Sense; unless the application of Common Sense is now forbidden by those assessing this application, it would be sufficient grounds merely in itself to refuse planning permission. Indeed, so much so, that it is bewildering that this new application has even been submitted (after two previous refusals and an appeal dismissal by HM Inspectorate). This use of common sense relates simply to geography and topography. Anyone visiting this site via the only possible road access (Oakhurst Rise) would immediately appreciate that the narrow, twisting and very steep roads leading to the site mean that any development at the top of Oakhurst Rise of anything more than one or two houses would lead to unacceptably increased dangers for all the residents in that area. This was recognized by the Charlton Kings Parish Council Planning Committee Members, who recently voted unanimously to object to this application. The site is completely unsuitable for social or 'affordable' housing, as it would require virtually 100% car use for access; so it would be a most unsuitable location for those of restricted financial means who may wish to rely on public transport -- both the access to the site and the roads within have such steep gradients, it would make foot or cycle access completely impracticable, especially for those with wheelchairs, physical impairment, child-buggies and those carrying heavy shopping.

Despite the application documents concerning travel and access containing numerous misleading and disingenuous statements, it would appear that the applicants are actually well aware that the site is unsuitable for normal foot and cycle access, as it is stated that they are "prepared to provide each household ..... a voucher of £750 towards the purchase of an electric bike", as though this would somehow lead to a reduction in car use. If the permanent damage which would be caused by this proposed development was not so serious, such a statement could be

considered merely laughably absurd. Apart from the fact that such a voucher would be less than half the cost of a decent electric bike, what will happen when such bikes break, or get lost or stolen -- or the initial resident moves out and takes the electric bike with them ? As even a partial solution to the major access problems, the electric bike voucher proposal is simply ridiculous.

The local opposition to this application is overwhelming and is caused by concern for the local ecology and environment as well as the permanent danger and distress that would be visited upon the current residents of Oakhurst Rise and the other roads within the Ewen's Farm Estate. There are around 100 letters of Objection on the CBC web-portal and only a handful of 'supporters', none of whom actually live in Charlton Kings. Some supporters say they wish to 'move to the area'; the good news is that this development is not required for such a desire to be fulfilled, as there are around 90 houses and apartments available for sale right now, across all price bands, within half a mile of the meadow land on which the applicants wish to build. Some of these 'supporters' don't even live in Cheltenham and some of the commercially-driven housing associations that wish to manage a proportion of the proposed properties are headquartered as far away as the Forest of Dean and Oxfordshire. Cheltenham has more than sufficient land already allocated for non-controversial housing development in order to cover its requirements; the destruction of this environmentally delicate, sensitive and precious meadow-land is NOT necessary in order to provide the social and affordable housing which many people rightly wish to be built for Cheltenham's residents. As one Borough Councillor so eloquently put it at a Planning Committee meeting when considering a previous application to build on this land, these houses may well be excellent houses and the layout may well be visually attractive BUT they are totally unsuitable for building on this location. Common sense indeed.

Oakley Lodge  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 18th June 2020

We wish to object to this application.

This is yet another attempt to obtain outline planning permission to build a large housing estate on a beautiful unspoilt meadow in a prominent location in Cheltenham.

Access. The only access to the site is via Oakhurst Rise, a cul-de-sac in a very quiet and peaceful hillside residential area. The road is narrow and extremely steep. It would therefore be wholly unsuitable as the access road during construction for the huge number of large lorries and construction vehicles needed to clear the site and then bring in materials, as well as for the transport of site workers. Once built, the 43 new houses would generate a considerable volume of traffic, as owners, visitors, contractors, refuse lorries and delivery vans came and went - all via a narrow road with a 90 degree turn at the bottom of its steepest section.

This steep gradient makes the road extremely dangerous, particularly when roads are wet or icy, both for vehicles and for pedestrians. For the residents of the properties facing the steep section at the top of the cul-de-sac, there is also the real danger that lorries coming down this section of road could slide into their properties in icy conditions.

For the residents of Oakhurst Rise and those of the roads nearby, the negative impact of the development would be enormous, both during the time it would take to clear and build the roads and houses and then thereafter. There would be an increased volume of traffic and noise; traffic pollution; vibration shaking their properties as lorries struggle to turn the tight corners and change gear; as well as difficulty in accessing their own properties. The existing peace and quiet of their

neighbourhood would be shattered by the volume of cars, lorries and delivery vans associated with the new development, coming and going, day and night.

**Flooding.** We share the concerns raised elsewhere about the increased risk of flooding to nearby properties if this green space at the top of a hill is built over. In view of climate change and more and more severe weather events (such as the extremely heavy rain over the last two days), there is a very real and increasing risk of flooding.

**Access to local facilities.** As the only access to the development would be via Oakhurst Rise, any resident of the proposed development would have a very long and steep walk to shops, schools or other facilities. Any wheelchair user, parent or carer pushing a child in a pushchair or pram, or indeed anyone with limited mobility would find the gradient impossible and would therefore have to rely on a car or car transport to get anywhere outside the housing estate. This would make it difficult for residents to integrate into the local community and access local facilities as these would not be within easy walking distance.

**Ecology.** The site is of great ecological importance. It is a beautiful ancient wildflower meadow, providing a natural and unspoilt habitat for a wide and important variety of wildlife: animals, such as deer and badgers; birds, such as treecreepers, blackcaps and dunnocks; insects including rare moths; reptiles such as grass snakes and slow worms; veteran trees; and wild flowers. It has both a rare beauty and unique biodiversity and should be preserved in its entirety, rather than destroyed.

**Loss of community amenity.** If the proposed development went ahead, there would also be a great loss to the local community which would lose a valued amenity. County cross-country competitions, open to primary and senior school children from across Gloucestershire, are held on the site, as well as the school bonfire night in November which thousands of local people attend.

**Heritage.** The site lies between and forms the setting for two important historic buildings, Ashley Manor (Grade II\* listed) and Charlton Manor (Grade II listed), which are an important part of Cheltenham's heritage. If the development went ahead, the setting of these historic buildings (and the Ice House which lies between) would be greatly harmed. At present a green meadow forms the backdrop to these buildings, can be seen from within them, and allows the relationship between them to be seen; however if the development went ahead, this unity would be lost and a modern housing estate would dominate instead. The heritage of Cheltenham is precious and should be preserved for future generations, not spoilt through development. Once the setting has been harmed it cannot be restored.

**Visual impact.** Moreover the site lies in a prominent position on top of Battledown Hill. This green and wooded hill, and the site within it (including the heritage buildings mentioned above), are clearly visible from right round the surrounding Cotswold escarpment (an Area of Outstanding Natural Beauty) and from numerous vantage points across Cheltenham, including from the Charlton Kings conservation area to which it forms a backdrop.

If the development were to go ahead, a built-up area of modern houses, with high rooflines, would be inserted into an otherwise green and wooded hill, visible from miles around.

Finally, we request that the wider context of Cheltenham as a heritage town and tourist destination is also taken into account when considering this application. Cheltenham attracts thousands of visitors a year and is renowned for its natural beauty as well as its festivals and architecture. The natural beauty of the site, highly visible as one approaches Cheltenham, is part of Cheltenham's heritage and should be preserved for future generations.

For these reasons we object to this planning application.

Wellswood House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 15th June 2020

In line with other objections regarding strain on infrastructure, flooding concerns etc

12 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RH

**Comments:** 17th May 2020

Reference: Application 20/00683/OUT

This application for 43 dwellings on land adjacent with single access from Oakhurst Rise follows on from the refusal by the Appeal Inspector B.J.Sims on 20th September 2019 for development submitted under 18/02171/OUT made by the same applicants. That in turn followed the refusal by the Borough Council for planning application 17/00710/OUT, again from the same developers.

I object to this application on the following grounds

1. Drainage/Flood risk

Schemes to deal with foul and surface water drainage have been developed by Simpson Associates. Their view is that both can be dealt with via gravity systems connecting to existing infrastructure within the locality.

However, there is significant failure to take into account the previous flooding encountered by properties on the Battledown Estate, Ewen's Farm Estate, in particular those on Oak Avenue, and Haywards Road in 2007. The impact additional properties, as a result of the proposed development, would have on the risk of future flooding in the context of these historic flood events has not been properly addressed. Proposals for the removal of foul and storm water from the site include linking into existing infrastructure on Charlton Court Road. This subsequently drains down towards to the previously affected properties.

The document titled, 'Flood Risk Assessment Land off Oakhurst Rise, Charlton Kings Cheltenham, Gloucestershire (C21505 Oakhurst Rise, Charlton Kings / FRA Rev M April 2020, prepared, by Simpson Associates Consulting Engineers LLP) identifies the land as being located within Flood Zone 1, i.e., a low probability of river or sea flooding (See Section 5). It goes on to acknowledge (Clause 5.11) that while the area is considered to be of no risk of surface flooding, this may be due to the current greenfield site conditions of trees, shrubs and grass.

Clause 5.12 goes on to acknowledge that the site is steeply sloping with a fall across the site towards the south west and as such it is assumed that the risk of surface flooding on the site is low. Figure 5, on page 8 of the report shows an embedded Flood Map of Surface Water (extracted from the Gov.uk website in Jan 2017). This clearly shows an area with a high risk of flooding in the area of Charlton Court Road near the south west corner of the site, extending down to Oak Avenue. Areas that have suffered as a consequence of foul and storm water flooding in the past.

Furthermore, clauses 5.13/5.14 record that the Strategic Flood Risk Assessment includes information on past flooding incidents in the local area and by inclusion of the DG5 register. This

provides post codes of the affected areas and while the exact locations of the affected properties are reported to be unknown it does indicate that CBC has shown that 3 incidents of flooding from sewers have occurred in the vicinity of the site when looking at the postal area GL52 6. The authors go on to assume that due to the low number of occurrences the site is at low risk of sewer flooding.

While the authors assumption that the proposed development site may be at low risk of sewer flooding it pays scant regard in this respect to properties in the surrounding area that have been affected historically. This is based in part due to the information apparently being held in official records that is inaccurate. In Jun/Jul 2007 multiple homes in the GL52 6 postcode area flooded including at least eight properties in Haywards Road due to backing up of the sewer system. Numerous others in Oak Avenue were also affected.

Since the time that these flood events occurred there has not been, at least to my knowledge, any investigation or report to identify the root cause and responsibility for the flooding. There has been no obvious remediation and none of CBC, STW or the EA have made any attempts to actively engage with residents that were affected.

The proposal to remove foul water is via a connection to the existing manhole SO96214401 within the St Edward's school grounds. If this is not feasible then an alternative connection under gravity to an existing sewer located within Charlton Court Road to the South West of the development was proposed.

Should the development be approved one condition that should be imposed is to ensure connection is made to the existing foul water sewer within St Edward's School grounds to the south of the site via the existing manhole SO96214401. There appear to be no obvious impediment to achieving this. The option to connect via Charlton Court Road should be removed. The proposed development will significantly alter the characteristics of the site with respect to flood risk for properties in the surrounding area and approval of the proposed development will add significant additional burden to the storm water and sewer systems that are already operating at high capacity.

The FRA indicates that Severn Trent Water (STW) confirmed that their system has capacity to take the new flows from the site. This was communicated in 2016. An up-to-date appraisal should be required as a condition of the planning.

The report also recommends that a further capacity check should be undertaken downstream of the proposed outfall connection during the detailed design stage once proposed flows have been finalised. Should the scheme be approved in principle, a satisfactory outcome from the check of the downstream capacity should be a required condition of its approval.

The plans presented on pages 30, 32 and 34 of the Planning Statement indicate the proposal to introduce of an attenuation pond at the southern end of the proposed development. Similarly, section 7 (Drainage) of the Design and Access Statement, prepared by Coombes Everitt Architects, indicates, "... a pond is proposed at the bottom of the site to assist with the attenuation of the surface water run-off."

Both these statements are inconsistent with and contradict Clause 8.7 of the FRA that states clearly that the pond is not part of the attenuation scheme.

The Design and Access Statement also indicates that, "To ensure the system is not overloaded a number of attenuation tanks are proposed". However, plans show only a single attention tank.

Due to concerns over potential flooding as a consequence of storm water run-off, it is requested that should approval for this or any revised scheme be granted, a condition of approval is to increase the amount of attenuation on the site. Specific consideration should also be given to

utilising the green space to the east of the site to mitigate storm water run-off from the proposed development. This land is owned by the applicant.

Furthermore, the submitted the Drainage Strategy fails to meet a condition outlined during refusal of previous applications, namely to:

'...provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.'

It is requested that the application is refused until such time as a viable strategy to fulfil the requirements of the condition are presented for review as part of a complete application.

Given that the proposed strategy must last for the lifetime of the development, it is also requested that should approval for the scheme be granted now or in the future, a condition of approval should to place a requirement on William Morrison (Cheltenham) Ltd., the Trustees of the Carmelite Charitable Trust and their successors, to make financial provisions to ensure this obligation can be met.

As a consequence of the flooding to my property encountered in June and July 2007, any sustained periods of heavy rain are now associated with a significant and heightened sense of anxiety. Furthermore, the insurance premiums on the property increased dramatically subsequent to the incidents and have remained at elevated levels since that time despite there being no apparent flood risk to the area.

I would therefore request that consideration is also given to the implementation of a condition that requires the applicant(s) and their successors, to make financials provision to compensate victims of flooding in the surrounding areas that would otherwise not have occurred had the development not been approved. This request is considered to be entirely reasonable based on the expectation that the applicants are confident that their proposed development will not contribute to an increased risk of flooding in the surrounding areas.

### 2. Transport Assessment (TA) / Residential Travel Plan (RTP) / Non-Motorised User (NMU) Assessment

Clause 5.12 of the TA considers the degree of car ownership and predicts that in 2021 the level of car ownership will be 1.78 per dwelling for privately owned properties and may be greater for shared ownership rented or affordable homes. The scheme allows for parking of up to 86 vehicles. It is therefore reasonable to think that this capacity could be exhausted fairly rapidly. In relation to Section 6 of the TA relating to forecast trip generation and impact on the Local Highway network, the assessment was performed over three years ago in December 2016 during which time the traffic burden on the local highways infrastructure is perceived to have increased significantly.

Prior to any approval, the applicant should be required to undertake an up-to-date assessment and revise their proposals accordingly.

Section 6 of the TA goes on to forecast that there will be roughly 0.33 outbound trips per residence during AM peak time and this will be repeated during the PM peak hour. I would assert that the majority of purchasers in the proposed development will be professionals or those that need to travel a reasonable distance to their place of work. Given the predicted number of cars per dwelling it would seem to be more appropriate to model this assessment using an increased average of trips per dwelling, e.g. one trip per dwelling, during peak times.

Clause 6.11 - the number of minutes per vehicle trip during peak hours is missing. This should be updated.

Clause 6.21 Indicates that GCC's preference throughout the traffic modelling of the Joint Core Strategy strategic developments assessment was to ensure that traffic uses the principal routes, rather than residential routes.

However, the TA has failed to appreciate that the roads on the Ewen's Farm estate, Haywards, Road, Rosehill Street, King Alfred Way, Saxon Way and Athelney Way are already used as a 'rat run' by commuters seeking to avoid congestion at the A40/A435/Haywards Road and the A40/Hales Road junctions.

Therefore, while the approach taken to modelling the impact of the development has been to assign traffic to the quickest principal routes rather than to residential streets, the approach having been approved by GCC during scoping discussions, it is outwith the realities of the actual current situation. Nothing in the current proposal suggests this is likely to change other than to the detriment of those living in the surrounding areas should the proposed development. Be approved now or in the future. This is disappointing.

Clause 6.24 states that vehicles can travel from the A435 to Haywards Road, but that a right turn movement to the A40 east is prohibited. While the latter point is correct, a movement from the A435 to Haywards Road is also prohibited, yet regularly flouted.

It is requested that a condition of approval for this scheme is for the installation of traffic enforcement cameras at the junction of the A40/A435/Haywards Road violations with respect to the prohibited manoeuvres.

With regard to the quickest proposed routes. From Cheltenham 012, both Routes 1 and 3 would not typically be those used by through traffic. In both cases cars typically turn right out of Beaufort Road onto Oak Avenue/Churchill Drive then left onto Haywards Road towards the junction with the A40/A435.

Appendix A includes data relating to modelling of distribution and traffic impact. The outputs indicate that the junctions at Sixways, Haywards Road/A40/A435 Cirencester Road and A40/Hales Road/A435 High Street are already over capacity for some if not all the time. Additional traffic burden as result of the development will add to this.

The only proposed mitigation is to widen the lanes heading west on the A40 at the junction with Hales Road and to implement a new/updated control system for signals. It is not clear how either of the proposed interventions will significantly improve the situation.

Given that the existing traffic load already creates congestion at Haywards Road/A40/A435 and Charlton Court Road/A40 junctions during peak hours, the additional traffic burden will undoubtedly induce through traffic to rely even more heavily on the existing 'rat run' between Hales road and the A40/A435 heading east.

It is therefore, requested that serious consideration be given to blocking access to the Ewen's Farm estate and Haywards Road from King Alfred Way as a condition of approval. While this will undoubtedly result in some inconvenience for some of the residents of the above mentioned areas, this will be offset by a significant reduction in through traffic. The final positioning of the closure should be taken in consultation with impacted local residents.

The RTP/NMU assessments highlight some deficiencies in the existing pavement infrastructure and also the ability to cross the London Road at various points.

A request for the addition of a specific timed signal to allow the safe pedestrian crossing of the A40/A435 at the junction with Haywards Road is also made. While pedestrian notionally have right of way, the crossing of this junction is particularly difficult and can be dangerous particularly when attempted with young children. Implementation of a specific phasing to allow pedestrians to

cross would remove any issues that will arise due to increased burden on this busy junction as a result of the proposed development.

While the RTP and NMU indicate that local amenities fall within the Institution of Highways and Transport (IHT) guidelines for journeys on foot, it fails to take into account the nature of the approach to Oakhurst Rise which is incredibly steep. A number of the existing residents of Oakhurst Rise have objected to the plans during earlier submissions on the basis that the nature of the access will prompt a significant number of potential NMU trips to be undertaken by car. In particular the existing residents of Oakhurst Rise have indicated that the footpaths are virtually unwalkable when they become icy. This will be a particular problem for the elderly and those making trips with young children.

One option with regard to access to the site may be to introduce a pedestrian access from Charlton Court Road at the point where a potential connection to the STW sewer system has been proposed. If a foot path following approximately the suggested line of the sewer were constructed this may result in a less arduous climb back to the development. Similarly the planning committee is requested to consider the possibility of constructing a footpath through the grounds that are currently used by St Edwards school that would provide a more direct access to the amenities and could be constructed in a way that made them less steep than the existing access. This would be in keeping with the cited Manual for Streets (MfS) that states walking offers the greatest potential for replacing short car trips, particularly those under 2 km.

The offer of a £750 contribution per household to purchase an e-bike as part of the RTP is nothing more than a gimmick and essentially amounts to a discount from the sales price for each property. This offer makes no contingency for change of property ownership (which could be within a short period of time) and future purchasers which would essentially be in the same position as the bikes not having been offered. It is unclear how this contributes to the sustainability aspect the remit laid out in the clause 2.1 of the Travel Plan as follows

A Travel Plan is a long-term management strategy built on a package of site-specific measures that seeks to deliver sustainable transport objectives.

Clause 2.19 goes on to indicate that while not an obligation based on the size of the proposed development the applicant has agreed to provide and fund a RTP that will further enhance the sustainable credentials of the site. It is not clear to me what the exactly the specific sustainable credentials of the site are. Furthermore, it is disappointing that properties in the surrounding area that will be affected by the increase burden on its transport infrastructure are not included in any proposed consultation or to be beneficiaries of the RTP. Surely it would not have been too difficult to include the properties on the adjacent roads cited in the TA/RTP/NMU so as to positively engage residents with a view to increasing the beneficial outcomes from the proposed development and its surrounding environs.

It is requested that as part of any potential approval, the applicant will be required to distribute the proposed Travel Information Pack to residents of the surrounding residential areas.

### 3. Number of properties too great

Policy HD4 within the Cheltenham Plan 2011-2031 (CP), submitted for review by the Secretary of State on 03 October 2018, provided for approximately 25 dwellings on the site at Oakhurst Rise.

The plan has been the subject of review by an Inspector appointed by the Secretary of State and report titled, 'Report on the Examination of the Cheltenham Plan 2011-2031', by Wendy J Burden (BA DipTP MRTPI) was published on 17 March 2020. The report includes a number recommended main modifications (MM) and is still awaiting formal adoption by CBC.

Reference to the report and its associated appendix is made in the Planning Statement prepared on behalf of William Morrison (Cheltenham) Ltd. and the Trustees of the Carmelite Charitable Trust, by Frampton Town Planning (FTP).

Selective reference by FTP is made in clause 2.7 of the Planning Statement to MM016 in the Inspectors Report that refers to Policy HD4.

In MM016 the wording relating to the site specific requirements of HD04 was changed from, 'Approximately 25 dwellings...', as documented in the submitted CP, to, 'A minimum of 25 dwellings...'

As part of the examination process of the proposed CP, a submission was made to the Inspector on behalf of applicants by SF Planning (M3\_1326\_W\_Morrison (SF Planning)). Their supposition was that the proposal for 25 houses was based on a flawed interpretation of a report by ECUS. However, on page 4 of their submission SF Planning go on to state,

'What is certain is that the suggested allocation of site HD4 is sound, and doing so would not be harmful to the significance of heritage assets. Approximately 25 dwellings can be delivered on site HD4 without any harm.'

In spite of these comments, an application for 68 dwellings (18/02171/OUT) was submitted but was duly rejected.

FTP also neglects to highlight MM014 in the Inspectors report that relates to Policy H1 of the CP - Land Allocated for Housing Development. This section of the CP contains a Table 3 (Table 2 in the amended CP) that lists the number of dwellings that each potential development can support. In MM014 a number of the proposed sites listed show a change to the number of dwellings that it is now proposed are built. Despite a minor modification to the wording in HD4, as stated above (see MM016) the number of dwellings designated for the Oakhurst Rise site remains at 25.

The attempts by FTP to selectively use the change in wording in MM016 to support an application to build 43 dwelling against a proposed number of 25 is at best unjustified.

While the CP has yet to be adopted the spirit and its intent with respect to HD4 (Land off Oakhurst Rise) is to limit the development to approximately 25 dwellings. This approximation can realistically be interpreted as between 23 and 28 dwellings.

The proposed development is significantly greater than is intended within the CP and should be rejected on the basis that the number of proposed dwelling cannot be supported without harm to the site.

If approval for this or any future applications is granted, it should be done based on an appropriate number of dwellings, i.e., 23 to 28 equating to approximately 25 dwellings.

Given the concerns over the damage to the heritage of the area, potential impact on flood risk and the increased burden on local traffic, the proposal to build a number of dwellings significantly above the number set out in the proposed CP is inappropriate and the application should be rejected.

High Grove Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LA

**Comments:** 29th June 2020

I object to the current outline planning application to build a large number of houses (originally 110, now reduced to 43) on the south facing slope of Battledown Hill because I believe that the land concerned is of far more value to Cheltenham maintained as it currently is than ever it could be if covered in a modern residential development. Cheltenham has many features which set it apart visually from other towns - the consistency and extent of its Regency architecture, its absence of high-rise development, its extensive central gardens and green spaces and its views of the surrounding Cotswold escarpment, for example. All of these will be preserved for future generations, and I believe that the contribution to the townscape made by a green Battledown Hill is of similar importance, and that this generation should take great care of it, just as previous generations have looked after Cheltenham's other key assets.

The western and northern slopes of the hill are already rendered irretrievably suburban by residential development (albeit moderated by the large number and variety of mature trees), the

eastern aspect is (hopefully) offered protection by virtue of its AONB status, and only the beautiful south facing St Edwards ground (so close to the AONB boundary) appears to be at risk of despoliation. Its value as an oasis of brilliant green, visible from miles around, is immeasurable. We have flat land to the north, west and south of the town - there is no need to build on the hill, not 43 houses nor even the 25 mentioned in the Local Plan. The visual intrusion is unacceptable and unnecessary.

Anyone who has taken the trouble to navigate the turns and gradients to reach the top section of Oakhurst Rise will appreciate extent of the adverse impact on the local community that would result from permitting this proposal. The location of the proposed site and the arrangements proposed to access it are bizarre. An excellent paper has been submitted by the Friends of Charlton Kings (June 8th 2020) which describes these impacts in detail and I concur with its conclusions and all its many other arguments from a wide variety of perspectives in favour of rejecting this proposition.

Fermain  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PG

**Comments:** 21st August 2020

There are many reasons why this development should not go ahead, and all reasons have previously been highlighted in the objections.

1. AONB - there are many brown field sites within the local area which should be developed prior to anyone being able to consider building on land such as this.
2. Access to the site would be via a very narrow up hill residential street, that is itself surrounded by other narrow residential streets. Cars are parked everywhere and on pavements. All this makes access to yet another 43 dwellings completely inappropriate and dangerous for both drivers and pedestrians.
3. The local infrastructure cannot cope currently. Both doctors and schools are over subscribed, this would only make this considerably worse.

There are many other reasons why this should not be granted planning permission, but these are just my top 3.

15 Battledown Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RD

**Comments:** 22nd May 2020

The timing of this application in view of the exceptional circumstances (Covid-19 pandemic) gives the applicants an unfair advantage. Many residents are fully occupied by simultaneously home-schooling and working or dealing with other extraordinary circumstances. Some named consultees are likely to be working in a reduced capacity or furloughed. The application should be delayed or at the least held in abeyance until circumstances allow proper consideration.

The application should go to committee - not just to the planning officer - to ensure it is fully considered.

We object to this application for the following reasons:

1. Increased flood risk for properties downhill of the site, some of whom already suffer from flooding problems. Whatever reassurances are made, it is unlikely that measures taken by the developers will be able to compensate for the loss of natural drainage.
2. Traffic congestion (and resulting pollution) in the London Rd/Hales Rd/Ewens Farm area is already bad & will be worsened.
3. The proposed access road - a very steep & narrow cul-de-sac - is completely unsuitable. In snowy/icy conditions it cannot be used safely. Furthermore, it is wrong and unfair for residents who have chosen to live on a cul-de-sac to have it transformed into a through-road used by possibly a hundred cars every day, increasing noise, pollution & danger. The whole character of those roads will be changed and the quality of life of residents will be adversely affected, through no fault of their own.
4. Loss of amenity for children from the neighbouring school who use it regularly for outdoor education and all those from other schools in the county who regularly use the site for athletic pursuits. Loss of amenity for the local community who attend the annual bonfire-night event.
5. Loss of valuable habitat for the countless species of birds, bats, animals, insects etc which inhabit the (undisturbed, and therefore valuable) grassland, trees and hedgerows which will be destroyed. Felled trees cannot simply be 'replaced'; a newly planted tree does not compensate for the loss of a mature tree in respect of visual amenity, wildlife habitat or removal of pollutants from the air. We accept that new houses are needed but to refuse a brownfield site development (Tim Fry Landrovers application) and then allow building on nearby green fields would be wrong.
6. The scheme falls foul of CBC Policy GE2: Private Green Space (supplementary planning guidance June 2009, available on the CBC site) which states:  
"The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted."  
This site borders the AONB, forming a visual centrepiece to the unique village environment that is Charlton Kings. The proposed density of housing is far higher than, and out of keeping with, that of the surrounding area.

3 Coxhorne Cottage  
London Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6UY

**Comments:** 8th June 2020

I object to this application on the basis of the importance of the archaeological interest of the site. This area has not been fully investigated and needs to be preserved.

Evidence from LiDar imaging, clearly shows medieval ridge and farrow across all of the site. There are areas where the ridge and farrow continues over the top of a very clearly marked villa shape, indicating that the remains of a roman villa exist on the site or possibly the remains of a building predating Roman. If you refer to the tithe map for the area of 1840 and there after, it is clearly marked in this area as 'ruins'. This can be seen on the Ashley Road side. Further investigation must be carried out.

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On the other side of the site near Oakhurst Rise you will note that the ridge and farrow extends over two very clear circular markings, indicating that these could be Iron Age. Just up from these circles you will see a rectangular shape with two clear, semi circular entrances on either side, depicting the outline of a possible burial mound. There are also further circular images under the medieval markings. All of which are of historical interest to the area.

Please refer to grid reference SO9652121561 when looking at the LiDar imaging.

The site is significant, not only because of the history that it preserves, with its archaeology, ancient trees, medieval markings and ancient hedges (all of which are protected by law) but it also holds onto the diverse array of wildlife, which must also be preserved. Even more so in today's current climate.

I will state clearly that I object to this application.

34 Sisson Road  
GL2 0RA

**Comments:** 16th June 2020

I'm supporting this application due to the high number of affordable housing it brings to the ever in demand Charlton Kings area.

Having a young family myself and currently having to think about re-housing for schools, this brings a much needed and affordable opportunity to relocate to the area.

8 Montpellier Drive  
Cheltenham  
Gloucestershire  
GL50 1TX

**Comments:** 8th July 2020

The economy is struggling at the moment. The House Building Industry is central to our economic recovery. These houses will help Cheltenham and the wider economy generally.

The Ridge  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6QE

**Comments:** 16th June 2020

I strongly object to this proposal which threatens a beautiful green lung in the heart of Charlton Kings. The developers have not chosen a brownfield site which would be suitable but instead an incredibly beautiful wildlife meadow which we should be doing all we can to preserve, not destroy. The area is incredibly valuable in terms of the huge variety of wildlife and plants, which once lost will never return.

I cannot see how this new proposal addresses any of the issues already noted which informed the two previous CBC refusal decisions and an Appeal Inquiry which dismissed the developer's Appeal and it appears to be a desperate last ditch attempt to push something through.

There are many more practical reasons that this is a very poor site for development that have been mentioned in all of the hundreds of objections already lodged and I hope that common sense and real thought for the environment above all else, prevails.

32 Copt Elm Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AH

**Comments:** 7th May 2020

I object on the grounds that this site is still unsuitable for 43 new homes to be built at this location. From the very beginning it was planned for 90 new homes to be built at this location. This was refused. Then it was planned for 69 new homes to be built at this location. This was refused. The access road to the site is totally unsuitable, its too narrow and steep. The extra volume of traffic trying to use this road would be intolerable for residents already living in the area. With the proposed 43 new homes being built at this location, there would be on average an additional 86 cars trying to access this site two or three times a day. That's without the extra traffic from utility services, internet deliveries, supermarket deliveries, friends and family visits. This does not alter the fact the only road leading to this proposed location is too narrow and steep. Also the different weather conditions throughout the year especially in winter with snow and ice to contend with, trying to access this narrow road to the proposed location.

In the Travel Plan for this site, to encourage alternatives to using a car, it gives examples of approximate distances and travel times to the local amenities at Sixways by walking and cycling. On paper this sounds to be acceptable, but there is no mention of the elevation for this journey. Has anyone tried to walk to the local Charlton Kings shops and back. Maybe walking/cycling downhill is bearable but the return journey uphill will surely deter people from this method of transport and return to their cars quickly.

The loss of another Area of Outstanding Beauty destroyed for profit. The wildlife that is within the area will be lost. More artificial street lighting spoiling the night skies. Where are the extra hospital beds coming from to cater for all the new builds in and around Cheltenham. Extra school places plus the doctors surgery appointments these are already stretched with long waiting times.

Penn House  
Tivoli Road  
Cheltenham  
Gloucestershire  
GL50 2TF

**Comments:** 22nd May 2020

I have watched this application being submitted in various ways to grind down the 'system' until approval is given. This seems to be a typical plan practised by developers who should comply with previous legitimate planning refusals.

I also feel that the full Planning Committee should continue to decide on the application as they will have a broader view for Cheltenham.

The objections remain:

1. Open land, green spaces and the environment need to be protected from the concrete jungle we are heading for
2. Trees create such a different ambience to nature and need to be protected, especially if they are hundreds of years old!
3. I have seen other sites flooded out after water has been denied its normal flow by fields being converted into housing developments. This should not be another one!
4. Access to the site will create yet more traffic delays and safety issues especially in the winter

5. GP surgeries were already seriously stretched before Covid and will be again. Let's not overload the infra-structure any more!
6. Schools fall into the same category and over-sized classes are not the way for Cheltenham to educate its future generations.

We sincerely hope that CBC will continue to support the lovely relaxing Cheltenham environment and reject this application once and for all.

Woodlands  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 5th August 2020

All previous objections points apply and are captured in full in other impassioned and expert residents' views.

Please make the inspector's commentary available to the planning committee in full.

How we can be here again, only 6 months after a dismissed appeal, is unfathomable. Almost none of the points raised at that appeal have been more than superficially addressed, other than moving back the boundary of the notional build (but with no management strategy for the resultant "fallow space" which will become a dumping ground for fly tippers, a short cut for criminals into back gardens not protected or designed to be secured from access in that direction; what it won't be is the beautiful wildflower meadow that is already in situ.)

A range of areas of concern such as flooding and spring water handling have been erased, presumably due to a tick box approach to the appeal findings - that isn't adequate and needs additional scrutiny.

This series of applications have been the opposite of community engagement and good master planning - the civic society comments encapsulate residents' sentiments concisely.

Please can this entire process be audited to ensure nothing similar can happen again and lessons are identified and processes changed?

**Comments:** 23rd May 2020

My objections have been previously submitted in some detail, all of which remain relevant to the current planning application. Herewith my summary of previous objections:

I strongly object to the new updated planning application for the following reasons:

1. Increase traffic of surrounding areas,
2. Compromised road safety
3. Unsuitable road access
4. Increase risk of flooding
5. Loss of green area
6. GP oversubscribed
7. Schools already oversubscribed

In addition to my comments above and in the best interests of democracy, the decision on this application should be taken by the democratically elected Planning Committee rather than the Planning Officer.

Field House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6PH

**Comments:** 14th May 2020

We object to the above application. We also objected to the previous applications in 2017 and 2018. No houses should be built on this green meadow, and we strongly feel that there should be a limit in the number of times an application is allowed to be put forward to the Council. It takes time and money from the tax payers to keep going through the formalities which cannot be afforded. If the planning committee turns it down three times that should be the limit. We wish the letter that we wrote on 8th September 2017 objecting should be circulated to the planning committee, as the objections we made then still apply today.

May I also say that in our democratic society we strongly feel that this matter is too important for the decision to be taken by the council officers, as it should be made by the planning committee of the council, an elected body. If, because of the situation, and until the planning committee can meet together, which I am sure they will be able to do so before too long, THE DECISION SHOULD BE DEFERRED.

**Comments:** 7th August 2020

With reference to the planning application we wish to object.

I have driven to see for myself the traffic situation at Ewens Farm. There were cars parked along all the associated roads, making them extremely narrow, and especially dangerous during the busy times of the day. The access out of Ewens Farm is either onto the A40, which comes to a complete halt in rush hour, or via King Alfred Way with cars parked all over the pavements awaiting repairs at the garages. At rush hour during the morning the traffic along Hales Road down to the London Road traffic lights backs up as far as Battledown Approach and sometimes further. What will happen when you have another 100 cars trying to filter into these roads. It is no good thinking people will walk or cycle, the majority do not. The Planning Committee must take this into account. The roads are not designed to take the amount of traffic already using it and planning to build another 43 houses will result in a huge increase in traffic in the Battledown area. The previous letter of objection from the resident in Tall Timbers (I do hope this letter of objection regarding the previous planning applications will be available to the Planning Committee) who obviously has detailed knowledge regarding traffic flow, plus the case much more succinctly than I.

Regarding the risk of flooding. We happen to live on the top of Battledown and our house is built on clay soil. Having lived here for many years, we have always been grateful of where we live, having seen the excess rain water flood down the hill, even right through some houses lower down. The building of so many houses and the taking away or permeable green fields could have a direct impact on existing properties.

I note others, some living beyond our County, remark we need more affordable housing. However we also need open green spaces for the well being of the general public. Squeezing houses onto any open green space will be toying with peoples' mental health. May I suggest affordable housing needs to be put on brown field sites, which developers reject, as the easier option is to cover green fields with houses.

Whilst I realise that the Planning Committee does not have to take into consideration the other aspects of the result of having maybe 150 extra residents in the area. It must be aware that there are not enough doctors, spaces in the local schools, or beds in the hospital for such an increase in population.

Battledown is a unique habitat and it is tragic to think that our local flora and will life would be destroyed if planning was granted.

14 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

**Comments:** 22nd May 2020

It will create a bottleneck of traffic in a very narrow entrance at Oakhurst Rise.

**Comments:** 26th May 2020

As has been outlined eloquently elsewhere here, the latest revised plans make NO difference whatsoever to the problems this would create. The site would still increase traffic through a narrow,steep bottleneck of an entrance which is the only proposed access to the site; there is still an increased danger of flooding; there is still an increase on the already over-burdened infrastructure. If the inspection in August highlighted numerous problems, why is this still being persisted with?

**Comments:** 26th May 2020

As has been outlined eloquently elsewhere here, the latest revised plans make NO difference whatsoever to the problems this would create. The site would still increase traffic through a narrow,steep bottleneck of an entrance which is the only proposed access to the site; there is still an increased danger of flooding; there is still an increase on the already over-burdened infrastructure. If the inspection in August highlighted numerous problems, why is this still being persisted with?

80 Beeches Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8NU

**Comments:** 8th June 2020

I wish to lodge the strongest of objections to the proposed development in respect of the above planning application.

We are suffering too much building creep into our rural areas, and if such developments as this are approved, then Cheltenham and it's environs will not only lose its identity, but will become yet another "urban sprawl."

There has been a major and positive seed change in attitudes toward nature and the environment, and any development on this site must be rejected in line with the public attitude that prevails today.

This is not the first attempt by the developer to obtain planning consent, and in line with previous decisions, must be rejected out of hand.

9 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JW

**Comments:** 8th May 2020

I object to this proposal for the same reasons as the last two applications, namely:

- Increased traffic on the surrounding roads, which are already far too busy.
- Increased traffic equals extra emissions. I would expect the aim would be to reduce emissions wherever possible.
- Unsuitable access via Oakhurst Drive, which is narrow and extremely steep.
- Extra strain on local amenities such as schools and health services. It already takes over three weeks to get a doctors appointment, this development will only make matters worse.
- Detrimental impact on the surrounding countryside and wildlife. Surely the objective should be to protect our green spaces and wildlife, not bulldoze them out of existence.

10 Warwick Crescent  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YZ

**Comments:** 1st August 2020

I wish to object to the proposed application for 43 dwellings. Although I appreciate the need for affordable housing, the area cannot cope with the additional traffic and impact created with having additional housing. There is the social aspect of the loss of events being held in the grounds, to the local community and there is the loss of important flora and fauna.

I have only given a brief synopsis of my objections, but whole heartedly agree with the eloquent letters of objection and all the points raised therein.

24 Castlefields Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6YR

**Comments:** 2nd June 2020

This is an unsuitable site for development due to poor access, the impact on wildlife, the impact on a nearby grade II listed building, and the increased flood risk that will result.

8 Pine Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JR

**Comments:** 25th May 2020

I find myself protesting in writing for the third time regarding the planning application for Oakhurst Rise.

This is a beautiful organic meadow with ancient oaks and hedgerows. The loss of green fields and a unique habitat will be a threat to wildlife. There are badgers that would not survive if relocated, seven species of bats, newts, adders, slow worms as well as dozens of bird species. There is also a family of deer that can often be seen during the day in the meadow.

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The increased risk of flash floods will have consequences for local people, including myself who live below the proposed site.

Local schools are already over subscribed and sixways surgery has a six year waiting list.

To quote from Planning Committee minutes 19/07/18 'only one access to the site, which is torturous and ridiculous via a windy, congested rat run. Steep gradients, blind junctions and dangers in snow and ice have all been ignored.

The junction at sixways is already over capacity and this problem has not yet been addressed. The traffic impact of forty three dwellings (resulting in at least eighty more vehicles) will be severe.

The local plan has already met the affordable housing need, providing enough housing for the town until 2031.

Until all of these problems have been addressed and the developers have a satisfactory solution, then planning permission must be refused.

5 The Gables  
Cheltenham  
Gloucestershire  
GL52 6TR

**Comments:** 30th June 2020

Affordable homes are desperately needed. There is a huge shortfall and there are currently 2500 people in Cheltenham on the waiting list for affordable homes

133 New Barn Lane  
Cheltenham  
Gloucestershire  
GL52 3LQ

**Comments:** 17th June 2020

I don't understand why this is back in planning again. The land is allocated for housing development in the draft Local Plan so why does it keep getting refused.. and reduced in size? We need these site delivered in Cheltenham for much need housing and this is clearly a very logical site within the town.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 7th June 2020

I wish to reiterate my strong objection to this 'new' planning application having reviewed the latest documentation with regards potential development on this site - 20/00683/OUT.

Furthermore, I do not see any evidence that the rationale regards the previous two planning applications on this site, which the Council recently turned down, have since been addressed. This application is merely a minor amendment to the previous application by the developers which was comprehensively rejected by CBC. From the council's refusal decision letters, a number of key reasons were recorded and a mention was made of the NPPF. None of these

reasons have been adequately addressed by the latest application so this application should also be rejected.

36 Suffolk Parade  
Cheltenham  
Gloucestershire  
GL50 2AD

**Comments:** 11th June 2020

I support this application as the site is within the draft local plan and it will provide much needed housing in the area, specifically the eighteen affordable houses that will go some way to reduce the number of people on the waiting list in Cheltenham for affordable homes.

The sale of this site will provide local shops and businesses with increased revenue after the loss of turnover during the Covid 19 lockdown.

St Edwards school will benefit financially enabling them to improve their existing facilities which long term will ensure the students at the school a brighter future.

I support this application in full.

40 Pilley Lane  
Cheltenham  
Gloucestershire  
GL53 9ER

**Comments:** 8th May 2020

This is surely an asset to the area and my son would like to move back to the area that he was bought up in.

Flat 5  
Cameron House  
Glencairn Park Road Cheltenham  
Gloucestershire  
GL50 2<sup>ND</sup>

**Comments:** 28th June 2020

I wish to strongly oppose the updated planning application for a housing development situated off Oakhurst Rise. I am outraged by the continuous attempts of the developers to build on a beautiful, preserved meadow - not to mention the disastrous effects that this would have on the diverse wildlife found in the area.

### ACCESS

Oakhurst Rise is a completely unsuitable access point for the development, as raised countless times prior. Oakhurst Rise is set at such a steep gradient and is incredibly narrow - any increase in traffic up this road (by circa 80 cars) would almost certainly lead to unavoidable accidents.

Please also consider the worsening of the situation in winter months - when the roads are icy, breaking and parking becomes incredibly risky - this is because of the incredibly steep gradient.

Another concern is the wider road network of the Ewens Farm estate which is extremely narrow and winding. I have lost track of the number of times that I have found myself stuck in traffic on

many occasions due to the nature of the roads - with lots of cars parked on either side of the road, it is hazardous for road users during peak times.

If this planning application is approved, it would make it extremely difficult for residents to use their cars/driveways in the winter. I imagine that over time, this could lead to a large number of accidents/insurance claims, pushing the cost of car insurance up for local residents.

### HABITAT

I do also share the concerns raised regarding the permanent loss to the environment this development will cause. The important green space is much used by dog walkers and local children, making it such an important community amenity. It is also a very ecologically diverse area, home to rare species of bats, birds, badgers and rare moths, amongst countless other species. I am also incredibly concerned by the finding of the Ancient Tree Forum that has found at least 2 irreplaceable veteran trees which are in danger of being permanently destroyed. All ancient trees of whatever species or size should receive the level of protection stated in para 175c. Mature trees, where they have the appropriate key decay features, should be considered as irreplaceable habitat and therefore veterans to which the policy in para 175c of the NPPF applies.

### SOCIAL HOUSING

I don't think that the allocation of affordable housing is creditable. I think the developers have shown a great deal of cynicism in the split between properties that could be affordable to low/middle income families, compared to executive homes that will only be in budget for the elite.

### SUPPORTING COMMENTS

I would like to comment on the wide array of supporting comments that I have recently seen which indicate that Cheltenham Borough Council and/or its planning officers support this application. I cannot get my head around how this could be the case before all of the facts and comments have been presented? This seems entirely undemocratic if this is indeed the case and that a decision has been made before being presented with both sides at a Planning Committee Meeting, with a vote being taken.

I would like to know how these households know that Cheltenham Borough Council and/or its planning officers support the developers' cause and just how democratic this process really is.

Brereton House  
Stow Road  
Andoversford  
Cheltenham  
Gloucestershire  
GL54 4JN

### **Comments:** 29th June 2020

I cannot understand the objection to this development. It meets all the criteria, most notably providing affordable housing that is urgently needed by the Borough. The school will benefit as well which will be hugely important to them and the local area especially during such unstable times. As a former pupil, I am in favour of their benefit on the back of such a much-needed development for the local area. Any objection cannot be taken seriously other than somebody not wanting some more housing built near their home, which doesn't make sense when all authorities back the development.

2 Imperial Square  
Cheltenham  
Gloucestershire  
GL50 1QB

**Comments:** 17th June 2020

I am in support of this development proposal. The re submitted scheme has been carefully thought through and provides much needed homes in a popular sustainable location, and in particular provides much needed social housing to local young people and young families.

216 Leckhampton Road  
Cheltenham  
Gloucestershire  
GL53 0AW

**Comments:** 19th June 2020

Having young adults myself this development will offer huge potential for anyone wanting to have affordable housing in the future.

Southern Lawn  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 23rd May 2020

Thank you for your letter of 1 May 2020 concerning this Planning Application.

I am not sure whether previous objections are brought forward - I sincerely hope so, as many older people do not have access to the internet or, at present, the library. Nor can meetings be held by residents to share their thoughts about or collaborate on a response. It is disappointing that such a sensitive application is not being deferred until after the period of lockdown.

So: please can consideration of this application be deferred until after lockdown, and please can it then be submitted to the full planning committee?

Many of the previous objections express our concerns in an extremely thorough and careful way. Rather than repeat points, we wish therefore to endorse in particular those expressed by Meadow View (06.09.2017) and 17 Oakhurst Drive (17.09.2017).

We object to this application on the following grounds:

- It fails to resolve the reasons for refusal at Appeal
- demonstrably unsuitable access route
- the visual impact on the environment from the AONB
- the loss of amenity to local schools
- the flood implications of additional hard landscaping across the spring line,
- all the disgruntled bats, badgers, deer, neighbours and newts.

To lose this greenfield site, used by local schools and visible from miles around would be a shame. To deal with the consequences, such as the increased flooding risk and traffic mayhem would be expensive. The benefits to a few developers would be significant, but it is difficult to see any benefits at all to the community.

Kind regards to all Officers and Councilors during this difficult time.

**Comments:** 4th August 2020

We object to this application. We understand that previous objections will be carried forward, because this is a revised scheme for the same plot by the same developers. However, to reiterate:

- The refusal of the previous scheme was upheld recently at appeal. The new scheme does not - despite claims to do so - negate any of the reasons for refusal.
- It does not reflect the recently published Local Plan and therefore the local planning policy, and
- the access route is obviously unsuitable
- the negative visual impact on the environment from the AONB
- the loss of amenity to local schools
- the flood implications of additional hard landscaping across the spring line,
- all the bats, badgers and newts who would be made homeless.

To lose this greenfield site, used by several schools and visible from miles around would be a shame.

To deal with the consequences, such as the increased flooding risk and traffic mayhem would be expensive.

The benefits to a few developers would be significant.

But it is difficult to see any benefits at all to the community.

Flat 4  
35 St Georges Road  
Cheltenham  
Gloucestershire  
GL50 3DU

**Comments:** 2nd July 2020

OBJECTION to development of the St Edwards School Meadow (20/00693/OUT)

Mr Frampton wrote to CBC (26th June 2020) saying that residents (also called teachers, children and their parents) of St Edwards School are 'trespassing' in developing an ecological understanding of the fields under threat. I have forwarded CBC some photos of "trespass" in progress today during a lockdown lesson.

We call this education, enjoyment of the local environment, and important community amenity.

This is the difference between charitable ownership and commercial ownership of a strategic land asset.

Fortunately the field in question is still (for now, and for another 30 years if this application fails) leased to the school, who permit responsible access to a whole range of community stakeholders, in accordance with child protection policies, to ensure full use of a community asset / cross country course / bee habitat and more.

I don't even live in Charlton Kings but as a parent of children at St Edwards School and qualified ecologist, myself and other residents have worked with the Friends of Charlton Kings planning team to help the community (above and beyond the school community). Opportunities like this lockdown school day in an urban environment are priceless, and the loss of this wildflower meadow would be catastrophic and in complete contradiction of sensible biodiversity policies. Residents may not be planning consultants, but they have done their best to represent the facts

without the benefit of limitless budgets and consultants paid to make the developers' case (at length). Mr Frampton has made no such efforts to understand community concerns or address them, contrary to all good planning practice.

**Comments:** 6th June 2020

This application fails to deliver on Cheltenham's promise to be carbon neutral. It has no sustainable features and is the opposite of what my generation aspire to for homes. Car only, inaccessible, no shops or facilities nearby, no cycle paths.

My college class could do better at master planning.

Sunnyhill  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 17th June 2020

Cheltenham needs new houses due to its shortage.

Looks like a great development, ideal for new family with some great schools nearby.

153 Prestbury Road  
Cheltenham  
GL522du

**Comments:** 18th June 2020

As a parent, it would be a great place to raise my children, and there are some brilliant school options nearby.

31 Charlton Close  
Cheltenham  
Gloucestershire  
GL53 8DH

**Comments:** 20th May 2020

I object to the proposed development on this site for many reasons including:

1. impact on the environment given the historic trees and known badger sett on the site;
2. flooding risk due to the nature and location of the site;
3. additional burden on local amenities, including schools, doctors etc;
4. poor access to the site and the significant increase in traffic in the area due to the large number of additional homes; and
5. the loss of a valuable public amenity (as the site is the location of cross country running competitions and a very popular bonfire night).

Previous plans have rightly been rejected as should this application despite the reduction in the number of dwellings. All objections remain regardless of the number of dwellings.

163 London Road  
Cheltenham  
Gloucestershire  
GL52 6HN

**Comments:** 23rd June 2020

I am writing to comment on what I consider a complete scandal by certain residents regarding the above Planning Application and their objections to it. The proposed development meets all the criteria necessary, in that it provides desperately affordable housing that is urgently needed by the Borough. The Carmelite Order is happy with the sale of the land, St Edwards school is happy and will benefit substantially and indeed CBC's own Planning Committee support it but some NIMBY's don't want this type of development near them, it is outrageous.

1 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 13th May 2020

My bungalow is directly on the rise of the road so all noise from passing traffic effects my garden bedrooms and living room which are on the road side. Any increase in traffic will make living here unbearable.

The application will mean an extra 80 car journeys not including all the delivery vans that make up todays lifestyle. It would not be possible to enjoy being in my house.

Visual Impact would be awful as it would mean the loss of most of those beautiful trees that I can see from my windows. We need more green spaces to combat Global Warming and Nature has proved to be calming and de-stressing any loss of this has a very negative impact on mental health. I am depressed at the thought of losing those beautiful trees and all the associated wild life.

1 the cottage  
piccadilly  
cheltenham  
gl54 5uu

**Comments:** 23rd June 2020

I fully support this application, there is currently not enough affordable housing in the area and this scheme seems to tick all the boxes required.

26 Bracken Way  
Malvern  
WR14 1JH

**Comments:** 11th June 2020

I would like to provide my support for this revised application. This is an allocated site for residential development and the latest application for the erection of 43 units, has sympathetically considered and addressed consultant and inspectorate comments regarding listed buildings, trees and ecological matters.

Greenacres  
Madresfield Road  
Malvern  
WR13 5AS

**Comments:** 14th July 2020

its about time more houses are going to be build in Cheltenham

77 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

**Comments:** 21st May 2020

Looking to move to this area due to the quality of schools, would welcome the opportunity to purchase a new build as once people are in this area they tend not to move out.

15 Castle Street  
Worcester  
WR1 3AD

**Comments:** 14th July 2020

I have been looking to move to this area for a long time and now finally houses are going to be built. The land is not being used for anything, housing is a good ideas. My family and I would be able to enjoy living in a safe and beautifully place.

11 Wimborne Close  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3QP

**Comments:** 8th July 2020

This development I feel will be a great opportunity for young people to get onto the housing market and be close to family members living nearby. Cheltenham house prices are exceptionally high making it very difficult for young people to get their foot on the ladder this new development has my full support.

4 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 18th May 2020

Letter attached.

23 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JS

**Comments:** 14th May 2020

This is to my knowledge the third application for this site. Each time the housing numbers are reduced but the dangers and issues not dealt with. The main problem is that no new road infrastructure has been planned to cater for the increase in motor vehicles, nor likely to be. Beaufort Road has 44 dwellings and has an estimated 85 vehicles associated. Working on the basis of a similar number of properties then there is expectation for at least a similar number of vehicles.

My comments from my previous 2 objections remain the same. In brief, access / egress from Ewens Farm Estate is onto London Road or Hales Road - two main roads which can become highly congested and usually grid locked during peak periods. At times one has to miss sequences of lights at Holy Apostles / London Road because of the gridlock. The estate is supposedly subject to a 20 mile per hour speed limit, one that is not adhered to nor likely to be enforceable as there is no Policing. As a resident we are subjected to noise created by the clatter of vehicles speeding over the humps.

Oakhurst Rise, the intended access to and from the site is most unsuitable. This is due to the nature of the roadway which includes a very steep hill, treacherous in wintry conditions when descending due to parked vehicles near the junction with Beaufort Road. There have been some near misses due to vehicles blindly turning left into Oakhurst Road being confronted by vehicles on their side of the road. Beaufort Road is a two-way road with numerous vehicles parked on the road which in itself causes difficulty to persons wishing to emerge from their driveways. The Southern end of the road has a No Entry sign erected but this is ignored from time to time especially as Satellite Navigations give directions to enter there.

In concluding, I again ask that this application be refused as the site is totally unsuitable for the above mentioned reasons. The numbers are not relevant as if misguidedly granted, would only lead to further applications and more potential noise and dangerous situations. If the Applicant wishes to build at this site then a safer more suitable entrance should be found from their vast land. This I question is not possible because of the high volume of traffic in this area. Perhaps they should utilise the school access/ egress points instead of creating more misery for the Ewens Farm Estate.

2 Ewens Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JP

**Comments:** 20th May 2020

We are amazed that the developers are submitting yet another application for this site, since all the reasons previously stated about this planning application still apply and have already been turned down twice.

The access to and from the proposed site is no different from previously, into and out of a cul-de-sac which is on a steep gradient. The extra traffic from this will add to the already large amount going through Ewens Farm from Hales Road to the London Road, very rarely at the 20 mph limit, as well as the increasing number of residents vehicles who live on the estate.

The area for the proposed site is home to wildlife that would not be able to be accommodated by moving its habitat, nature does not work that way, and the trees that have been established for many years cannot be replaced, therefore this would all be lost forever.

We therefore, once again, strongly oppose this planning application.

29 Haywards Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6RQ

**Comments:** 13th May 2020

I object to the new updated planning application for many reasons, the main ones being:

- Increased traffic in surrounding areas on roads that are already struggling to cope with the volume
- Increased traffic brings increased danger for those living in the area, not only from the volume of traffic passing by people's houses, but also pollution from those vehicles
- Concreting over green areas destroys wildlife and brings an increased risk of flooding. The site is at the top of the slope, with many houses below it.

82 Rosehill Street  
Cheltenham  
Gloucestershire  
GL52 6SJ

**Comments:** 26th June 2020

I wish to strongly oppose the updated planning application for a housing development situated off Oakhurst Rise.

**ACCESS**

The latest planning application does nothing to address the serious concerns regarding Oakhurst Rise as an access road for the new site.

The entire road infrastructure that encompasses the Ewans Farm estate is already questionable. Narrow and winding roads make it hazardous for road users during peak times. But the matter of Oakhurst Rise serving as the access road for this proposed housing development is a real cause for concern regarding its steep and narrow gradient entrance.

The junction suffers from being located right at the bottom of a very steep hill that cannot be seen by drivers entering the road when they turn left. All too often, visitors will turn in too quickly and if a driver is exiting the road it relies on quick thinking from both vehicles to avoid a collision.

The entrance/exit out of Oakhurst regularly has vehicles parked on the road; worsening the narrow access. Residents regularly experience near-miss incidents at this point when drivers turn left into Oakhurst Rise, oblivious to this problem.

The situation is exacerbated in winter months. Most residents of dare not drive under icy conditions in fear of losing control of their car on the steep hill. Many residents of Oakhurst Rise are retired and can fortunately leave their cars unused during these adverse conditions.

If this planning application is approved how can the hundred or so new vehicles seriously access without incident? If Oakhurst Rise is covered in ice it's incredibly dangerous to drive up the hill unless your vehicle benefits from all-wheel drive.

Many councillors quite rightly raised the unsuitability of Oakhurst Rise as an access road for this development and it's both discouraging and distressing that developers appear to be belligerently pressing ahead regardless. I can't stress enough how dangerous this road will become from a huge increase in vehicle use.

Greenmount  
12 Christchurch Road  
Cheltenham  
Gloucestershire  
GL50 2PL

**Comments:** 29th June 2020

This appears to be a well-thought out development that leaves plenty of green space around it. In these tricky times, the economy will benefit from approving and advancing projects such as these.

18 Selkirk Gardens  
Cheltenham  
Gloucestershire  
GL52 5LX

**Comments:** 1st July 2020

There is a massive shortage of housing in the area especially affordable homes. Young local residents need this type of development to go head to enable them to stay within the area.

I also believe the local economy will benefit hugely if the development goes ahead.

58 Bouncers Lane  
Cheltenham  
Gloucestershire  
GL52 5JN

**Comments:** 1st July 2020

Generates welcome trade and income for all the businesses at Sixways

Hillview House  
Hambrook Street  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LW

**Comments:** 23rd July 2020

I would like to object to the above planning application. The development is detrimental to the neighbouring houses and is another example of overdevelopment in this already crowded and densely populated area. Money always seems to win over the environment we live in. Ideally it would be wonderful if this land was preserved as a nature reserve for the enjoyment and wellbeing of the community as a whole rather than lining the pockets of a few greedy developers.

4 Charlton Park Drive  
Cheltenham  
Gloucestershire  
GL53 7RX

**Comments:** 22nd June 2020

Looking at the development plan, there are 18 affordable homes for residents of Charlton Kings to rent or buy. My understanding is there hasn't been this volume of affordable homes built in the parish for some considerable time. Affordable homes that more than likely fall into the budget of our important key workers who have kept this county and country running over the last 4 months. I also wanted to mention there are residents who live in Charlton Kings already who cannot afford to purchase a home because the prices are so high, this will prove to be a valuable asset for them and their families.

Hilcot  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 13th May 2020

I am writing to object to the planned Oakhurst building scheme that would cause severe damage to the local environment. This devastation would be in the form of loss of wildlife, water run off drainage problems, traffic congestion, health damaging pollution and lost valuable landscape features. Wildlife is important for biodiversity. Green grass space is needed to allow the water to soak away into the landscape not tarmac. Another 100 or so cars causing congestion in Charlton Kings are not needed on our already overcrowded roads. More health damaging pollution is not needed by our communities vulnerable people. The green meadow hill is a very visible geographical feature from many different roads and this is an attraction for our community and visitors. In conclusion I urge you not to approve the scheme at all for the many convincing reasons given above.

**Comments:** 5th June 2020

My objections previously made on the scheme for the development of the land adjacent to Oakhurst Rise still stand and are extended to include comments on the changes. In addition I object to the latest plans because the highest 2 1/2 storey houses are in very visible positions at the front of the site and at the top of the historic meadow. This would further detract from the architecture of the historic school building and the geographical meadow feature particularly when the site is seen from various approaches including Charlton Kings. Also note that the large area of mature trees drawn on the plan are proposed and are in fact new and do not exist therefore the new houses may be very visible and may significantly detract from the geographical site and the historic school house for many, possibly 20 -30 years if the plan is approved.

**Comments:** 14th August 2020

Previous comments objecting to the Oakhurst Rise house building proposal are carried forward. There are some comments below on the documents submitted after the last objection. I would draw your attention to the following points.

Bioscan exceeds "qualifying criteria for causing key wildlife site significant harm."

Revised site plan Section AA does not seem to show the true impact of the highly visible housing development, the line of proposed trees will take 30 plus years to reach maturity or the true impact on the listed Villa. The creators vision and words of "the loveliest hills arranged around it" will be destroyed.

FLAC talks about trees but surely if mature trees close to veteran trees are destroyed they are prevented from being more mature trees. Again I make the point re the proposed line of trees that are shown as mature in the proposal.

I urge you to reject the proposal for the reasons above and in other comments.

Castle Farm  
Ashley Rd  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 16th May 2020

We strongly object to this planning application.

This is the 3rd time a proposal has been submitted in the last 3 years. Each previous proposal has been rejected, and an appeal by the developers on the most recent was also rejected. None of the fundamental issues highlighted below have changed, and surely this is now becoming a waste of valuable local council resource and taxpayers money.

The fundamental issues remain

- The proposed access is totally unsuitable
- The flooding risk to houses below this hilltop is high
- Destruction of a green hilltop space and trees, a fundamental visual asset to this end of Cheltenham, that gives the town it's unique and special appeal
- Destruction of the wildlife in such a biodiverse space

We also understand that this decision may be taken by council officers rather than the proper planning committee. This is inappropriate for such an important issue, which has been rejected on so many previous occasions. At the very least, the decision should be deferred until the correct process can take place.

Flat 4  
Stanmer House  
Lypiatt Road Cheltenham  
Gloucestershire  
GL50 2QJ

**Comments:** 28th June 2020

This is a sustainable development located within the urban area that provides 43 much needed new homes including 18 affordable homes.

11A Churchill Drive  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JH

**Comments:** 25th June 2020

I would like to register an objection to the planned development at Oakhurst Rise.

The infrastructure of this local area can not support the building and maintenance of the proposed development. Oakhurst Rise itself is hugely inappropriate as access. It would seem that if the development was to go ahead, access via Greenway Lane If possible would be more suitable.

There are other reasons why this development is not a good idea, the protection of ancient trees and green habitat for example. One of the things that I was surprised was not mentioned in previous planning was the necessity of green space for mental health benefits. The park by Hayward's Road and King Alfred Way is a brilliant example of this, but it is also incredibly heavily used, especially during these covid times.

Fundamentally I think there are many more appropriate and less controversial areas that could be used for a similar development.

Thanks in advance for registering this concern.

10 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 20th May 2020

I object so strongly to this "yet another" application from the same developers, that still doesn't resolve the main concerns of both local residents and the Planning Committee. Oakhurst Rise is completely the wrong access for a housing development. It is too steep, too narrow and is currently full of on-road parked vehicles. The existing housing was built with driveways suitable for cars of the 1970s, not the much wider vehicles used today - hence the necessity for on-road parking.

The road simply couldn't support the number of additional vehicles that this proposal would generate. I beg to differ with the applicants when they state the residents of the new development would walk or cycle - that is currently very rare, so won't happen in the future.

The junction at the entrance to Oakhurst Rise is treacherous in good weather, with sight lines regularly blocked, but in bad weather the road becomes unusable as it is so steep and ungritted.

Public transport is very poor, with the best service provided at Sixways, but then there is the steep climb back to Oakhurst Rise on foot, carrying shopping.

Local services are already stretched, with waits in excess of 3 weeks to see GPs - I can't see this improving with a new housing development.

The field itself is a haven for wildlife, with deer and foxes regular visitors to our garden, to say nothing of the ancient trees.

This application is so wrong on so many levels and having been refused at Planning Committee stage several times before, must surely be deferred to the next full such meeting, rather than leave it to a general council officer meeting.

I urge the Planning Committee to once again refuse this application, this time once and for all.

Coversdown  
Birchley Road  
Cheltenham  
GL526NY

**Comments:** 26th May 2020

Further to the amendments received, my original objection lodged on the 22 May 2020, remains in place.

Wadleys Farm  
Ham Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6NJ

**Comments:** 21st May 2020

Letter attached.

Tor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 24th May 2020

Yet again these developers come back with a scam application having reduced the number of proposed houses makes no difference, my objections are the same as previous applications, access to development from oakhurst rise is unsuitable, the flooding risk which is real, flora and fauna, and the fact we know that if outline planning is given for 43 homes it will be amended if these developers and Carmelites flip the land onto someone else for a profit which is highly likely and a strong rumour, these guys are treating the planning committee and community with contempt by not taking NO for an answer

**Comments:** 4th August 2020

Yes again objecting, crazy access to site narrow and dangerous loss of green space, trees, wildlife, historic flooding issues that will be worse with development

14 Greenway Lane  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6LB

**Comments:** 16th May 2020

We wish to register our strong objection to this application.

First and foremost, as per the JCS and local plan, development at this level, significantly beyond what the local plan targets on this site, is simply not required.

Beyond that, we feel the access available to the site is grossly inadequate to support the significant volume of road traffic that would be generated by so many houses in such a location. The transport assessments in the application are disingenuous - the physical reality of access to the site means far more car journeys will be generated than suggested, and Oakhurst Rise is not suitable to support that. Beyond the immediate site access issues, the existing traffic issues on the busy London Road junctions would be exacerbated.

We are concerned about the increased run-off and flood risks for neighbouring areas likely to result from such extensive loss of vegetation and permeable surface area. Our locality is already prone to flash flooding; increased run-off down the hill will not improve this.

The loss of valuable habitat for wildlife is a further concern, both in conservation terms and for residential amenity - the very regular presence of deer and owls, in particular, on the site provides a real contribution to the well-being of my family and neighbours.

We do not believe the local social infrastructure (schools and doctors in particular) have anywhere near the capacity to absorb this significant additional demand. In addition the site provides valuable community space, for cross county running and fireworks, that would be lost and not easily substituted.

This new application does not go nearly far enough in addressing the reasons highlighted by the planning committee and inspectors when the previous application and appeal were rejected.

In summary, we do not believe the proposal is remotely appropriate or in accordance with a number of aspects of local planning policy.

10 Beaufort Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JT

**Comments:** 6th June 2020

I would like to raise my objection to the planning application for 43 dwellings on the land adjacent to oakhurst rise Cheltenham

I object because if build the dwellings would cause an

- Increased flood risk, from surface water flooding, springs and inadequate sewerage capacity
- Lack of school places, particularly at primary level, and of any GP capacity (noting the problems we will face as a community post Covid)
- Impact on the AONB and the CK conservation area(exacerbated by the new roof profile at the top of the site)
- Loss of amenity to local residents
- Increased traffic and pollution levels. The estate is already used as a short cut. This would also leads to increased risks of car accidents involving local pedestrians

I would also like to say that it has been very hard for some people to comment and raise their objections during this time and with that in mind it feels like the planning proposal is being sneaked through planning committee

Greenacre  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6QD

**Comments:** 7th June 2020

I objected to this development the first time round and nothing has changed in my opinion .Even though fewer houses are proposed, it makes no difference to the fact there will be building on wonderful greenfield site. My reasons for objection are:

- accessibility- no-one in a wheelchair will be able to use the site due to the steep gradients
- tree impact and damage to hedgerows - harm to ancient and veteran and mature trees and loss of habitat for wildlife
- flood risk- springs on the site, steep gradient and impact on already poor sewerage system.

- increased traffic and pressure on local services like schools and medical centre.

The current site is a beautiful wild meadow and something we should be protecting locally not building on.

Overdale House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NU

**Comments:** 12th May 2020

Reference: Application 20/00683/OUT

This application for 43 dwellings on Battledown land adjacent to and with single access from Oakhurst Rise follows on from the refusal by the Appeal Inspector B.J.Sims on 20th September 2019 for development submitted under 18/02171/OUT made by the same applicants. That in turn followed the refusal by the Borough Council for planning application 17/00710/OUT, again from the same developers.

A previous planning application on the same site, albeit for 'only' 3 acres of development not the full 10 acres was rejected on 20 December 1984.

"Reasons for refusal included the loss of trees, the exacerbation of existing flooding problems, and the inability of the surrounding roads to cope with anticipated amount of traffic." Source. Cheltenham Borough Council Borough Architect and Planning Officer Records.

.In a Report to Cheltenham Borough Council by Wendy J Burden BA DipTP MRTPI, an Inspector appointed by the Secretary of State Dated 17 March 2020 Planning and Compulsory Purchase Act 2004 (as amended) Section 20. Report on the Examination of the Cheltenham Plan 2011-2031 in para 58 she states:

"Policy HD4 provides for some 25 dwellings on land at Oakhurst Rise. MM016 provides for a restriction to the area of the site to ensure that new development does not impact on the setting of adjacent listed buildings. A recent appeal decision for some 68 dwellings was found, among other issues, to materially alter the character and appearance of the site harmful to the setting of the listed buildings and to result in a loss of protected trees. The appeal was dismissed.

59. An allocation for some 25 dwellings would considerably reduce the potential for the harmful impacts which were identified in the appeal scheme. A more modest development would enable the interrelationships between the listed buildings, the site and the Ice House to be better addressed and to avoid any harmful impact on the setting of the listed buildings. It would also enable the retention of important trees within the site, and I have made a minor change to the wording of modified Policy HD4 to require the protection of mature trees. In view of the location of the site within the built-up area and the need for residential development within Cheltenham, I find that with an appropriate layout and form of development the issues raised as part of the appeal scheme could be satisfactorily addressed and the allocation is sound."

It would seem from the outline plan in 20/00683/OUT that development in the NE area of the meadowland has been curtailed in line with the Inspectors comments but that 43 dwellings are applied for as opposed to the 25 recommended.

The Developer having submitted numerous planning applications must need a greater return on the investment than 25 houses to make a profit and so continues to seek a denser development.

Whether it is a development of 43 or 25 properties there is going to be an impact upon a wide cross section of environmental, physiological and sustainability issues.

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Access to the site is inadequate for 43 houses (with upwards of 80 plus vehicles) using Oakhurst Rise, a small pre-existing residential road of about 25 dwellings, mainly bungalows; which is too steep, too narrow and leads only to other pre-existing residential roads (Beaufort Road, Ewens Road) that are also highly inadequate in width and gradient, all based upon a one way system with considerable traffic calming. Exiting and entering traffic will be in a merry-go-round over traffic calming and parked cars in what was designed as a Council Estate. The families currently living there will be a constant risk if the children go out to play.

It is already a rat run at peak times from London Road (A40) to Hales Road via the adjacent industrial estate.

Cheltenham Planning Policy GE 2; Private Green Space states "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will should not be permitted."

The proposed development does not meet the requirements of significant townscape and environmental contribution? It clearly has a unique environmental impact with a wide range of flora and fauna, it is kept in semi-wild condition, with once per year grass cutting, occasional use by the School for cross-country events and at its lower end has a the school farm with various rare breeds, including Alpaca's. It is a unique site that it is surrounded by buildings on all 4 sides, it is visible from the AONB areas. The proposed development is as undesirable and damaging to the landscape as development of the middle slopes of any hills, escarpment or coastline would be. It would also set a precedent for higher level development of the south side of the existing village of Charlton Kings on Timbercombe and across to Daisybank Road.

Currently entering the town from Cirencester this historic land never having been built upon since before Roman times forms a wonderful undeveloped area and enhances the critical green space that goes to form Cheltenham's ambience.

At present this field within 5 minutes of the Council Chambers, with its ancient hedgerows and mature trees, is an important and unusual natural sanctuary for wildlife. Looking up from St Edwards playing field boundaries one can often see the deer roaming the site. Over the decades, local residents have observed birds and mammals raising their young without interference. It is densely populated by a wide range of creatures including foxes, badgers, different species of mice, shrews, voles, hedgehogs, newts, glow worms, bats, bees, owls, woodpeckers. Such a unique environment close to the heart of a classical town should be protected for generations to come so they may observe an uninterrupted natural habitat and to respect it and learn from its critical value in an increasingly urbanised country.

Drainage off the hill is a major issue which will be compounded by the addition of concrete and tarmac. In the 2007 storm, the head of water coming off Battledown was such that manhole covers 'blew out' half-way up Ashley Road as the water built up in the Sixways area. Battledown Approach and Harp Hill also became rivers rather than road. The holding pond at the bottom of Ashley Road overflowed and caused flooding at SixWays.

A further concern is around extra demand on an already stretched infrastructure. The local health practice is already oversubscribed, schools for all age groups are also full and the link through Oakhurst Rise is difficult for pedestrians and cyclists, hence easy access to public transport is impracticable thus additional private cars will use the local road system and require parking space in the town at their destinations.

We therefore object to the development and request our Councillors consider if this proposal is in the long-term best interests of the town and future residents. This meadowland should be considered for full preservation and Policy HD4 amended.

Ash Tree House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 7th June 2020

I strongly object to this 'new' planning application.

This application is merely a minor amendment to the previous applications, which were comprehensively rejected by CBC. None of the reasons for refusal contained within CBCs own decision letters, have been adequately addressed by the latest application so this application should also be rejected. This application directly contravenes the provisions contained within the Local Housing Development Plan for Cheltenham, approved by CBC last year.

In my opinion, the scale of the planned development with 43 dwellings remains completely inappropriate for this site and very much out of character with the local area. Access to the proposed site is restrictive, with a very steep aspect to the approach and narrow roads that are in no way suitable. Therefore, with regards to the above concerns and my comments submitted against the previous applications on this site, it is respectfully requested that planning permission for the above development be refused.

11 Battledown Drive  
Cheltenham  
Gloucestershire  
GL52 6RX

**Comments:** 15th June 2020

I would like to strongly oppose this proposed new development. The access from Oakhurst Rise will devastate the local residents by overburdening the sewage and drainage system. Also to allow 80 plus additional cars to use the access in all weather's is not acceptable and potentially dangerous on such a steep and narrow access road. Flooding is a significant concern in the area on this steeply sloping clay ground with natural springs and pond.

Please do not permit this development.

21 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 12th July 2020

I am writing to object to the proposed development, it's very sad that once again we are having to do this after the last refusal. Nothing has changed with regard to the access for this proposed development, it is still steep gradients through a quiet residential area. Once this area is concreted over its lost forever..I am extremely concerned with the risk of flooding, traffic congestion, the loss of wildlife habitats ancient trees and the already overstretched local amenities.

15 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 29th June 2020

The access to the area through Oakhurst Rise is totally unsuitable, the steepness of the slope would limit journeys by foot and cycling, therefore new residents would mostly drive.

The impact on the quality of life of the existing residents of Oakhurst Rise would be very unacceptable.

As residents we currently live in a quiet cul-de-sac and we love it, that is why we chose to live here.

11 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 30th June 2020

I am a resident of Oakhurst Rise and would like to object to the plans of building 43 houses on the land adjacent to our road.

One of my concerns is the amount extra traffic this will create. Oakhurst Rise is a steep and winding road. It has a blind junction as you come into the road and would be dangerous. The surrounding roads are already used as a rat run. Sixways, Hailes Road, the A40 and A435 also get congested. Any extra traffic would make the situation worse.

Another one of my main concerns are the increased risk of flash flooding during heavy rain. The fields which act as a natural sponge would be paved over so any run off water would run down the road into our houses. As you are probably aware the houses are all bungalows and if we were to flood we would not be able to protect our belongings by putting them upstairs.

There are protected species of wildlife that would be threatened if the building went ahead as well as veteran oak trees and ancient hedgerows.

Also Sixways surgery and the local schools are oversubscribed and would not be able to cope with the extra households in this area.

Please do not allow the building of these houses to go ahead.

Thank you

5 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 20th May 2020

Last August I sat through all four days of the planning enquiry on the previous application for this site.

Having heard all the evidence then, I am appalled that the developers have applied yet again, the only difference being the reduced number of dwellings.

Nothing else has changed, so all my previous objections are still valid. The only access is still through Oakhurst Rise which is a very steep narrow road with a very dangerous corner at the start.

Residents of this quiet cul-de-sac would suffer badly with the increase in traffic if this became the main road to a new housing estate.

The flooding continues to encroach on some residents gardens at times of heavy or prolonged rain. To cover the field with concrete would only exacerbate the problem.

In this era of mass pollution, the ecology of this unique site is priceless to the school and local residents alike. It also sustains a large amount of wildlife, deer badgers fox's etc.

In conclusion I consider that the site is totally unsuitable for the development proposed, as it was for the two previous applications

3 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 7th July 2020

My objection to the application is that all reasons for the refusal of earlier applications are still valid.

Obviously the impact on a quiet residential area with unsuitable access for heavy increased traffic is my major concern. However the proposed site is valuable green belt land and should remain so.

We can only trust that the Planning COmmittee will make the right decision and refuse to give consent.

33 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 19th May 2020

My comments on the above proposal are as follows:

I object to the proposal for the following reasons:

1. this is an unspoilt area which is a home to wildlife and ancient oak trees.
2. access to the site is difficult and limited by only one access road.
3. extra traffic will add to the problem.

37 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 6th June 2020

I would like to submit my objection to the proposed development on land adjacent to Oakhurst Rise.

I strongly object to the 43 dwellings proposed for this site. I don't believe the immediate local infrastructure is sufficient to cope with the vehicles and services associated with the number of people who would reside there. The local access roads are narrow and further narrowed by parked cars. With increased traffic to the new dwellings (and it would increase, very few journeys would take place on foot or by bike given how steep and far they would be from main roads, schools, offices, doctors etc they would be) the roads would be even more dangerous. The local schools and doctors surgeries would very likely struggle to take on further people. The drainage that the new dwellings would add onto would very likely be overwhelmed too. It would also be a very sad loss of green space that supports a range of wild birds and animals with its mature trees and grassland.

38 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 31st May 2020

We would like to object strongly to this outline application for 43 dwellings on land adjacent to Oakhurst Rise. Two previous applications by the same developer were rejected by CBC and the second one was further rejected by the Planning Inspector under appeal. This current application raises the same issues as the previous applications and therefore should not even be considered.

At minimum we request that this application is considered by the Planning Committee, when it is able to meet, as opposed to by the Planning Officers, who previously have been (correctly) overruled by the committee and the inspector.

The new application for 43 dwellings is still well in excess of the 25 recommended in the Cheltenham Plan. The main issues are:

**ACCESS** - Oakhurst Rise is too narrow and too steep to accommodate traffic for such a development;

**TRAFFIC** - local roads are already overloaded, extra traffic would cause significant problems, and local public transport is inadequate;

**INFRASTRUCTURE** - local facilities (doctors/schools/etc) are already oversubscribed and could not cope with an additional development;

**FLOODING** - this has been a major issue in the area. Further loss of green space to hard surfaces is going to increase the problem on this steeply sloping clay ground with natural springs and ponds;

**ENVIRONMENT** - the application involves the loss of ancient and veteran trees. It will also destroy the unique biodiversity on the site which currently supports a wide variety of flora and fauna;

**HERITAGE** - the proposed development will have a negative impact on the Grade II listed Ashley House and Charlton Manor.

The facile conclusion of the Heritage report provided by the developers suggests that the benefits outweigh the disadvantages but fails to mention any benefit!

**VISUAL IMPACT** - the development will not only have a negative impact on many nearby properties but also on the wider local views. Inexplicably the tallest buildings have been positioned on the highest part of the site where they will be most obtrusive from all aspects.

**CONCLUSION** - this application fails to meet many of the principles set out in the CBC local plan as well as principles in the Charlton Kings parish council plan and should therefore be rejected.

40 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 8th June 2020

We are strongly opposed to the current planning application to build the houses near St Edwards. I feel that this would cause far too many problems to the nearby community. The additional houses will cause extra unwanted traffic and noise.

I trust you will take my objections seriously.

39 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 29th May 2020

As a resident of Charlton Court Road, I am writing to you with a degree of disbelief and concern at the prospect of the proposed new housing development on the fields adjacent to the top of our close.

There have been repeated issues with the drainage and sewerage system leading down from the houses higher up, which have required Severn Trent to come and carry out emergency work involving diggers, pneumatic drills, etc in my back garden late into the evening, in their attempts to unblock and free up the current drainage system. It is becoming evident to me that the present system is already struggling to cope with our existing waste, so when I heard that there are now plans to link up a proposed forty three new properties to the existing drainage system in the close, I was incredulous. There is NO WAY the drainage system in Charlton Court Road can handle such a large scale increase in waste and it would lead to much disruption, distress and not least, be a health hazard.

There is also the major issue of the blocked drains at the very bottom of the road, which during periods of increasingly excessive rainfall, have overflowed and had to be repeatedly pumped to deal with the back log of waste from our steep road up above. With increasing rainfall due to climate change becoming a reality of our times, expecting our existing drains to cope with even

more run off and waste from an entire new housing estate, is naive at best. The existing system quite simply was not ever designed for such a potentially heavy load.

In addition to the existing issues of inappropriate road access via Oakhurst Rise, damaging the existing ecology of the site and the interfering with the balance of an already high water table, I sincerely hope the Committee gives this issue of drainage into Charlton Court Road, some very serious consideration. What I have described above is the reality of the current drainage system. It would surely be an insanity to increase the load upon it and by such a massive degree. Thank you for reading and registering this objection.

7 St Judes Walk  
Cheltenham  
Gloucestershire  
GL53 7RU

**Comments:** 17th May 2020

The River Chelt and Lilley Brook are both subject to flooding from heavy rain prior to entering Cox's Meadow and any reduction in green areas that absorb water upstream from my property must increase the risk of future flooding. Therefore, I object to this development proposal.

5 Coronation Flats  
Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JF

**Comments:** 15th May 2020

This development proposal is similar to previously rejected ones 17/00710/OUT which was for 90 dwellings and 18/02171/OUT for 69 dwellings This proposal is for 43 dwellings which is a reduction of merely 26 dwellings and the objections I raised for the previous two applications still stand. As someone who would be adversely affected by the extra traffic caused I strongly object to this plan. I will concentrate on some of the main objections:

(1) Contrary to Cheltenham Plan

The new "Cheltenham Plan Pre-Submission Version (Regulation 19) February 2018" states under policy HD4 that the site for land off Oakhurst Drive would only be suitable for 25 dwellings.(Page 62) The proposed development represents 172 % of the Cheltenham Plan number.

[https://www.cheltenham.gov.uk/downloads/file/6532/sd001\\_-\\_cheltenham\\_plan\\_pre-submission\\_reg\\_19](https://www.cheltenham.gov.uk/downloads/file/6532/sd001_-_cheltenham_plan_pre-submission_reg_19)

(2) Increased Traffic effect on existing residents in the area

The small reduction in the number of proposed homes does little to change the fact that given 1 to 2 cars per family there will be significant extra traffic along the narrow and steep residential approach roads. Indeed HD4 of the Cheltenham Plan makes reference to the "Steep gradients across the site", which are also a feature in the access roads to the site.

Furthermore there will be traffic for the inevitable deliveries to those properties, not to mention the difficulties of larger vehicles such as refuse collection, emergency vehicles , post office vans and so on negotiating the narrow and steep approaches.

It is absurd to suggest that most residents would go on foot or use public transport to get to Six Ways, because of the gradients (especially on the return journey carrying heavy shopping up Beaufort Road). The only bus going past Oakhurst Rise (bus P - Pulhams) passes at 08.55,

11.55 and 14.55 during the weekday (<https://bustimes.org/services/p-cheltenham-little-cleeve-mount-ewens-farm-charlton>), so it is unlikely that anyone "popping out" to Sixways for a pint of milk would wait 2 hours to come back - clearly most would take a car.

Section 5.17 of the developer's Transport Assessment April 2020 specifies there will be 86 car parking spaces in the development.

In the developer's Residential Travel Plan. Table 4.1 in section 4.9 it clearly shows that the developers consider there will be 255 extra trips to and from the site in a single day. There is just one road that allows cars to enter Oakhurst Rise and just two ways to exit from Oakhurst Rise, so the residents of the surrounding roads can expect a substantial increase in the number of cars going up and down their roads.

The residents of the proposed site will not, themselves, suffer this passing travel perched on top of the hill in their cul-de-sac, it will only be existing residents who have to put up with this extra noise, sound pollution, exhaust pollution, danger and more inconvenience generally.

It should be noted that the developers do not propose an alternative access to the proposed development via the grounds of St Edmund's school.

### (3) Landscape and Visual Impact Assessment

Drawing SK07 in appendix G of the developer's Transport Assessment April 2020 clearly shows the comparative size of the site compared to the nearby Ewens Farm Estate. It covers around the same area as that bounded by Beaufort Road, Oak Avenue, Churchill Drive and Ewens Road - an area which includes a high percentage of social housing with young families, who will suffer from the additional traffic.

The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.

### (4) Proposed housing density

According to the Battledown Estate site <http://www.battledown.co.uk/covenant.asp>, in the Deed of Covenants and Regulations, number 5 states "No person is to build on the Original Lots of Estate land more houses than in proportion of one house to each half acre of land". This Estate is adjacent to the site and the proposed density of the site (shown in the Design and Access Statement) is 11 units per hectare (2.47 acres) which equates to 2.225 units per half acre of land. This is double the allowed adjacent density of 1 unit per half acre of land. The developer also states that the area to the west of the site has a similar density to the rest of the town, which I would also dispute, because the estate was laid out in the 1950s with substantial green shared areas and gardens. It does not exhibit the same housing density as other areas below the estate.

I urge you not to grant planning permission and to also withdraw this land from policy HD4 in the Cheltenham Plan under consideration, so that we are not plagued with constant revisions of this ill-thought development.

9 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 6th June 2020

## Page 271

In reference to the above we would like to raise our concerns and register our objection to any proposed development on the Oakhurst Rise site.

At this stage, we feel the need to mention the below points;

The historical difficulty in getting insurance for living on what the insurance companies consider to be a flood plain already.

Any further house development efforts will exasperbate the issue and likihood of flooding at the bottom of the road, as the ability of the land to soak up and dissipate the water will be compromised.

The additional traffic volume and vehicle space would place further strain on Charlton Court road.

The increased burden on the social structure with the area. Specifically the schools and doctor surgery.

We hope once again the council will decline the application,

12 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

### **Comments:** 5th June 2020

I strongly object. My objections remain the same as stated on previous applications. The current plan for 43 dwellings does not change anything. The negative impact on the local area regarding transport, communications, accessibility, flood risk, etc. is immense. However, most important of all is that this area is a key wildlife and nature reserve. We must preserve and protect our biodiversity and this wonderful habitat is a perfect example. Surely, the importance of this has been more than demonstrated within the current situation we find ourselves of the coronavirus pandemic.

Tall Timbers  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

### **Comments:** 6th May 2020

I strongly object to the application for a number of different reasons:

- 1) Unsuitable access and increased traffic: the roads surround ewens farm and oakhurst are already crowded and dangerous hence the 20mph speed limit. A higher volume of traffic through this area is not suitable or safe especially for the high number of cyclists and children who use the route to get to the local schools. Oakhurst rise gradient is not safe for increased traffic.
- 2) The damage to environment. The area proposed for development is a large field which homes lots of wildlife including newts, bats and badgers and also contains protected trees.
- 3) The increase in flood risk. As a local resident we were affected by the local flooding in Cheltenham. The field holds a huge quantity of water when there is heavy rain and helps reduce this risk of further flooding.

Fremington  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 23rd May 2020

We would like to object strongly to this outline application for 43 dwellings on land adjacent to Oakhurst Rise. Two previous applications by the same developer were rejected by CBC and the second one was further rejected by the Planning Inspector under appeal. This current application raises the same issues as the previous applications and therefore should not even be considered.

At minimum we request that this application is considered by the Planning Committee, when it is able to meet, as opposed to by the Planning Officers, who previously have been (correctly) over-ruled by the committee and the inspector.

The new application for 43 dwellings is still well in excess of the 25 recommended in the Cheltenham Plan. The main issues are:

**ACCESS** - Oakhurst Rise is too narrow and too steep to accommodate traffic for such a development;

**TRAFFIC** - local roads are already overloaded, extra traffic would cause significant problems, and local public transport is inadequate;

**INFRASTRUCTURE** - local facilities (doctors/schools/etc) are already oversubscribed and could not cope with an additional development;

**FLOODING** - this has been a major issue in the area. Further loss of green space to hard surfaces is going to increase the problem on this steeply sloping clay ground with natural springs and ponds;

**ENVIRONMENT** - the application involves the loss of ancient and veteran trees. It will also destroy the unique biodiversity on the site which currently supports a wide variety of flora and fauna;

**HERITAGE** - the proposed development will have a negative impact on the Grade II listed Ashley House and Charlton Manor.

The facile conclusion of the Heritage report provided by the developers suggests that the benefits outweigh the disadvantages but fails to mention any benefit!

**VISUAL IMPACT** - the development will not only have a negative impact on many nearby properties but also on the wider local views. Inexplicably the tallest buildings have been positioned on the highest part of the site where they will be most obtrusive from all aspects.

**CONCLUSION** - this application fails to meet many of the principles set out in the CBC local plan as well as principles in the Charlton Kings parish council plan and should therefore be rejected.

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 6th June 2020

All previous objections points apply and are captured in full in other impassioned and expert residents' views.

Please make the inspector's commentary available to the planning committee in full.

How we can be here again, only 6 months after a dismissed appeal, is unfathomable. Almost none of the points raised at that appeal have been more than superficially addressed, other than moving back the boundary of the notional build (but with no management strategy for the resultant "fallow space" which will become a dumping ground for fly tippers, a short cut for criminals into back gardens not protected or designed to be secured from access in that direction; what it won't be is the beautiful wildflower meadow that is already in situ.)

A range of areas of concern such as flooding and spring water handling have been erased, presumably due to a tick box approach to the appeal findings - that isn't adequate and needs additional scrutiny.

This series of applications have been the opposite of community engagement and good master planning - the civic society comments encapsulate residents' sentiments concisely.

Please can this entire process be audited to ensure nothing similar can happen again and lessons are identified and processes changed?

Savoy House  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 2nd July 2020

I write to object to the renewed attempt for planning at Oakhurst Rise.

The natural beauty retained within this domain is special and there should be consideration for retaining the space and habitat that already exists here in its natural environment.

The pursuance to build homes that are clearly for the pursuit of monetary gain is clear, seeing access to this development would be extremely difficult and only add unnecessary congestion to an area which has thrived on its peaceful nature since one can remember

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 22nd May 2020

As a property owner of Meadow View, Birchley Road, my property forms part of the northern boundary of the proposed development site. I have been fundamentally opposed to the proposed developments since they were introduced in 2017. I am also aware that there have been numerous previous applications over the years, which have all been rejected. It is inconceivable to see why 2020 is the correct time to reverse all the past judgements of history.

I have responded to all of the previous applications that have been rejected by Cheltenham Borough Council Planning Committee. This includes 17/00710/OUT, 18/02171/OUT and the response to the Cheltenham Plan 2011 to 2031, where the site is classified as HD4. Plus, the

recent appeal. In fact, there have been so many changes to this application since it was first proposed in January 2017, it is difficult to understand exactly what the developer is really trying to achieve, other than maximization of profit with disregards to environmental protection and ignoring local community feedback. From my perspective, the developer strategy seems to include: -

- Have extremely poor engagement with the local stakeholders including the local community
- Totally ignore stakeholder engagement and responses, fail to respond to the knowledge of the local community who live in the area and understand the complex issues associated with this site
- Use of arrogant, high profile "out of town" consultants who deliberately fail to engage with the local community and are not prepared to see their analysis challenged
- Wear down the spirit of the stakeholders, to the point at which they so confused as to the process being followed that they fail to object to the latest version of this badly conceived project
- Throw in multiple applications, with each one being a slightly "watered down" version of the last
- Previously we have seen "developer tactics" such as the Wheatcroft principle, proposing the use of independent lawyers to act as a quasi-public response forum.

In general, the whole process has been deeply frustrating, though I applaud the action taken by the Cheltenham Planning Committee, who have on two occasions strongly rejected the advice of the Cheltenham Planning Officer, who had recommended that both 17/00710/OUT and 18/02171/OUT should be permitted. Plus, the view of the inspector who in 2019 rejected the appeal. I would hope that the same Cheltenham Planning Committee will reject this application as well.

I have read the latest documents in detail and all of the comments, I strongly object to the proposed development and a I note the following: -

1. The stakeholder engagement for this process by the developer has been non-existent. At least in 2017, there was an initial public exhibition, however responses from the developer team were fundamentally arrogant and unhelpful. Subsequently there has been no effort to engage with the local community, other than some bizarre threats around trespassing, car parking etc. Irrespective of the merits of any application, if any developer does not follow NPPF, he should not be allowed to ignore the principles of community stakeholder engagement, just to save money and force through his proposed development. On this issue alone the appeal should be rejected.

2. The new layout of the site is of great concern. In the design and access statement by Coombes:Everitt, they discuss the site in great detail. However, it is absurd that they have placed the tallest houses on the very highest part of the site. These are house types Painswick and Highbury on Road 4, with a height to the ridge of 9.7m. The highest part of the site is on the northern boundary of the site, exactly where these houses are located. These houses can best be described as tall town houses on 3 floors or 2 ½ story in "developer speak". This will make the proposed development extremely obtrusive and visible from all over the area. It is astonishing that Coombes:Everitt who did a detailed topographical survey for 18/02171/OUT, did not recognize this issue when they re-designed the layout for this latest application. It questions their competence and professionalism. On this issue alone the appeal should be rejected.

3. At the very start of the first application in 2017, I believed that a major failure with the application was the lack of a secondary access for a site of what was going to be 100 homes, later 69 and now 43. The access point chosen, Oakhurst Rise is totally inadequate for the purpose, being both a current narrow residential cul-de-sac and with extremely steep gradients. A great deal has been said about the access, however any inspection by any "normal person" would conclude that the access pint is fundamentally dangerous and inadequate. Clearly if the appellant is finally allowed to construct, we will be tacitly agreeing to numerous road traffic accidents in the future. The appellant could have obtained a secondary access, and this was a

key point raised in the refusal of 17/00710/OUT. However, he failed to address this issue in 20/00683/OUT, presumably as a money saving issue. On this issue alone the application should be rejected.

4. As a property owner on Battledown, I am aware of the clay nature of the site and the operation of numerous natural springs on site and complex drainage patterns. As an example, just over the boundary of my property there is a medium size natural pond. This has been listed on maps for hundreds of years, though the developer does not even recognize this. In the latest application the ecologist again describes it as an ephemeral pond. Having owned Meadow View for over 10 years, I can assure you that the pond level does vary and will dry out during dry summer periods, however for most of the year it is wet and a source of life and used for birds and animals to drink. I do not know how this pond works, we do know there are springs in the area and the level increases rapidly after rainfall, hence there must be significant drainage entering the pond. There is no mention in the planning documentation as to what is proposed for this pond. It does not feature in the drainage plans. At present it appears to be ignored, not featuring on any of the site layouts. However, it does appear in Aspect Ecology's map 5487/ECO3. Of great concern is in 5487/ECO4, it has disappeared entirely. I presume it will be filled in, causing flood risk to properties to the north on higher ground, forming part of the Battledown Estate. If it is not filled in, it will of course be a health and safety concerns and a flood risk to properties below. This type of lack of attention to detail has been typical of the developer. Aspect Ecology, an Oxfordshire based, national consultant to property developers, has made no effort to discuss the function of the pond with the local community, but happy to carry out desk top assessments and produce misleading and biased reports. Again, this is a poor example of the arrogance and disregard shown by the developer to this project and the local community. I assume there are multiple issues like this on the proposed development and again I would state that on this issue alone the appeal should be rejected.

There are numerous examples that I could cite of poor design, incorrect analysis, ignoring difficult issues, twisted data, lack of community engagement and so on. The process has been extremely time consuming and expensive for those wishing to object, when up against the almost limitless funds of the developer. Surely this is the time to say a firm "no" to this development and hopefully secure approval for this site to be designated a Local Green Space for the benefit of future generations.

I trust the Planning Committee will listen to the community wishes, the previous judgement of the appeal and not just be "brow beaten" by the power of a wealthy developer, with his army of "experts" and their Carmelite partners.

Newlands  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 23rd May 2020

Reference: Application 20/00683/OUT

I strongly object the application for 43 dwellings on land adjacent with single access from Oakhurst Rise.

This application follows a subsequent application which was refused by the Appeal Inspector B.J.Sims on 20th September 2019 for development submitted under 18/02171/OUT made by the same applicants. The following application was also refused by the Borough Council for planning application 17/00710/OUT, submitted by the same developers.

### Local plan

As per the JCS and local plan, the proposed development at this level is significantly beyond what the local plan targets on this site, therefore confirming that a development of this size is not required.

### Access

At the last planning enquiry, a paper was presented and is now public record, of the deficiencies in the proposed site access. The original approval was from the Highway's authority based at Tewksbury, who admitted that it had been done without even a site visit. The access to the site is inadequate to support the increase volume of road traffic that would be generated by so many houses in such a location. Access to the site remains a key issue and is yet to be resolved.

### Traffic

The transport assessments in the application are inaccurate. The number of cars that would inevitably be used to access the site means considerably more car journeys will be generated than suggested, and Oakhurst Rise is not a suitable access road to support that. In addition to the access concerns, the current traffic issues on the busy London Road and Hales road intersections would be stressed further. The area cannot handle an increase in traffic.

### Flooding

I am concerned about the increased run-off and flood risks for neighbouring areas likely to result from such extensive loss of vegetation and permeable surface area. Our locality is already prone to flash flooding; increased run-off down the hill will not improve this.

### Loss of natural habitat and ecology

The loss of valuable biodiverse habitat for wildlife is a major issue, both in conservation terms and for residential amenity. A great variety of flora and fauna is thriving in this field. There is an established badger set and many buzzards, red kites and owls are seen frequently in and around the ancient hedge line surrounding the area.

### Local infrastructure

The local infrastructure including schools and doctors' surgeries in particular, do not have the capacity to support the additional pressure an application like this will create.

In summation, we do not believe the proposal is remotely appropriate or in accordance with a number of aspects of local planning policy.

Glenwhittan  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

### **Comments:** 21st May 2020

I write to object to the above planning application, on the grounds of the serious damage it would cause to part of a unique landscape - the Cotswold escarpment; in line with comments submitted on 20th March 2017 to the Cheltenham Plan (part one) Public Consultation; and for other reasons, relating to environment and wildlife habitat and also in respect of the proposed access.

### Landscape

The first objection is that the application would allow damaging development and construction work on high ground forming part of the Cotswold escarpment. Ground contour levels for the site rise from about 100m AOD at the south end of the site, to about 125m adjacent the rear of Birchley Road properties, on the north side of the site; whereas almost all major development in Cheltenham over the last 100 years or so has been limited to ground levels of about 105 - 110m AOD. The site is not a non-descript field in Gloucestershire: it is part of the Cotswold escarpment. As proposed in the comment for the Cheltenham Plan: Public Consultation, there should be no development on ground above 110m, in order to protect the escarpment; which, from south of Gloucester to the north of Cheltenham (past Prestbury, Bishops Cleeve, Woodmancote, Oxenton, Teddington), remains a largely undeveloped, unspoiled landscape of great natural beauty.

The only major development on the east side of Cheltenham is Battledown, which was planned and laid out about 150 years ago; with the significant requirement that every property should be sited on an half acre plot. This allowed most of the properties built to be planted with major trees, so that it is now visually a green tree-covered landscape with many properties part hidden when looking from the west (Gloucester, Staverton, Churchdown, Tewkesbury) eastwards. The properties proposed for the Oakhurst Rise development are generally on plots of limited size, which will not allow the planting of large trees (because of the disruptive effect they would have on the properties themselves).

In this sense, the proposed development, with houses on ground rising to about 125m, is as undesirable and damaging to the landscape as development of the middle slopes of any hills, escarpment or coastline would be. It would also set a terrible precedent for higher level development of the south side of the existing village of Charlton Kings, below Daisybank Road. Regarding levels, a limit of 110m would approximately match the extent of recent development on the south side of Charlton Kings: there is a spot level of 109m at the top of Sandy Lane, near Southfield Manor. Adjacent the Oakhurst Rise site, the ground level round the highest of the school buildings is about 108m.

### Environment and Wildlife

This problem with the proposed development is compounded by the planned removal of parts of a major old hedgerow, which has developed over the last century at least into an area of wild woodland, which extends to an area of about 4,000m<sup>2</sup>, about 1 acre. As a consequence of its age and size, and its continuity from the north to the south of the site, across ground levels from about 125m to about 100m, at present it shelters, and provides a wildlife corridor for foxes, deer, bats, birds, especially owls and wood-peckers, a wide variety of small mammals and reptiles (newts, snakes and slowworms), and butterflies and insects: some of which wildlife is rarely seen elsewhere, or is documented as rare. It is proposed that the section between about contour levels 115 and 120 would be removed to make way for the access road and housing. This would destroy the wildlife corridor.

Near the north end of this woodland area there is a very large veteran oak tree (tree T8 on the original tree survey, with a girth of about 5.5m). This tree requires at least the detailed protection measures set out in BS 5837 (Trees in relation to construction) including a construction exclusion zone; (as required in cl. 3.1.2: to be established "before works commence on site (which) is essential as the only way to prevent damage being caused to retained trees by operations in their vicinity"; (such 'damaging operations' to be prevented would include any construction or arboricultural works within the exclusion zone).

There is a second small wild wooded area about 30m to the east, about 600m<sup>2</sup> in area, on high ground (levels about 121 - 124m) on the north side of an existing large badger sett. It is proposed that this is to be removed entirely, including the badgers.

There is really no planning or intellectual argument to justify destruction of wild woodland, in the absence of confidence in the developer's willingness and determination to protect important features of the existing environment as they are now. The developer's justification is that many of the individual trees to be removed are not of specimen value, not being individually planted and nurtured, i.e. being wild; overlooking the fact of the unbroken length and size of the woodland area, that can be seen for miles around. Over at least the last century this woodland has become home to wildlife, and a wildlife corridor in a natural environment without any human interference: the adjoining meadows are mown once a year, about a day's work with a tractor.

The objection to the Developer's proposals, in relation to existing mature areas of trees forming woodland, is supported by another recommendation of BS 5837: Trees in relation to construction: cl. 4.2.4: "Trees forming groups and areas of woodland (including orchards, wood pasture and historic parkland) should be identified and considered as groups ..... particularly if they contain a variety of species and age classes that could aid long term management. It may be appropriate to assess the quality and value of such groups of trees as a whole, rather than as individuals." That recommendation is reinforced strongly when the area of woodland is also home to a wide variety of species of wildlife, as in this case.

Furthermore the Office for National Statistics is now mapping and valuing environmental assets as part of a government project to 'improve understanding of our natural capital': (Report: The Times: July 23rd, 2019); which continues: 'It estimated the worth of Britain's green spaces...in terms of carbon sequestration (the ability of vegetation, especially trees, to absorb carbon dioxide), the removal of air pollution from the atmosphere, and recreation. .... Valuing natural capital has become a critical issue because, without a price, markets automatically treat the environment as worthless. Costing natural services helps to correct that mistake and improve decision-making.'

Though the main reasons for objections on these grounds, (and therefore for rejection of the application), are first, preservation of irreplaceable landscape and wildlife undisturbed, and second, retention of woods and trees as by far the best method of carbon sequestration currently and definitely available, (all within a thriving community); the retention of natural habitat and ecology is also of great value, especially when available to a school, and through the school to other young people.

Finally, a recent 'Nature Notebook' from The Times (March 2019) reports the typical decline in abundance of wildlife resulting from tidy and managed development in an English county:

*"Visiting my father, who still lives in the village where I grew up, I was struck by how busy the roads were, how tidy and managed it seemed compared with the rambling, slightly ramshackle place I remember - and how little space was left for the natural world. Everything that wasn't built on was trimmed and pruned, every green glimpsed was a monoculture paddock or tightly manicured golf course, the tangled woods I once played in tidied and fenced off for paintball. It looked pretty and prosperous, but as money poured in to create this ..... the wildlife was quietly forced out.*

*In the past thirty years 11.5% of the county's plants, birds, invertebrates, fish, reptiles, amphibians and mammals have become locally extinct, a far higher figure than the national rate of 2%. A further 4.4% are threatened with extinction. There's no agribusiness or heavy industry to blame; ... but the area ranks in the top 25% of England's most densely populated counties .... Nature needs untidiness to flourish; it must be allowed to be self-willed, not made to look like something from a glossy magazine. 'O let them be left, wildness and wet; Long live the weeds and the wilderness yet.'*

*If development goes ahead there will be ecological surveys, and 'biodiversity offsetting' should be put in place, which can mean little more than planting non-native saplings in place of mature native trees. But some site-faithful birds such as sparrows (which are in decline) rarely move*

*more than a kilometre from their place of birth; the loss of suitable breeding habitat for a couple of seasons can wipe out a small colony. This is how we lose our wildlife: bit by bit."*

### Access to site and Transport

The road proposed for access to the site, Oakhurst Rise (OR), is seriously inadequate in several ways. The road design standards required for the access road are set out in at least two relevant documents:

Glos. C. C.: 'Highway requirements for development' (GCC:HRD)

Vehicular Access Standards: Development Control Advice Note 15, 2nd edition; produced by the Planning service, an Agency within the Department of the Environment. (The purpose of this Advice Note is to give general guidance to intending developers, their professional advisors and agents on the standards for vehicular access.) (VAS)

In addition, the Construction (Design and Management) Regulations 2015 are relevant to all aspects of the proposed development; particularly Regulation 27 Traffic routes. (CDM Regs)

- The road gradients (of OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives 8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that 'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

- The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.

- The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m.

In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

- Current dwellings: Ewens Road 19  
Pine Close, OR 43  
Beaufort Road 41

- i.e. the total number of dwellings: 103 at present, would increase to 146.

- Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here

and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.

- All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).

- In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'.

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The CDM Regulations are relevant in particular because of the very significant variation of the actual parameters of the access road (OR) from reasonable road parameters (particularly gradients) recommended in the appropriate standards (VAS or GCC:HRD). As an example, the OR gradient up to the junction with Beaufort Road is about 13.5%, whereas the VAS standard requires that: 'the gradient shall not normally exceed 4% over the first 10m outside the public road boundary ..... The remainder should have a gradient less than 10% so that it may be used during wintry weather.' That discrepancy, by such a large margin between actual gradient and DOE recommended values and the absence of a dwell area, implies a potentially serious hazard, with the associated risk certainly including a traffic accident or one involving a vehicle with a pedestrian or cyclist.

Under the Regulations, it is one or more of the CDM dutyholders (the Client, the Principal Designer and other designers, and the Principal Contractor) who are responsible, when preparing or modifying designs for the project or development as a whole, for identifying, eliminating or controlling foreseeable risks, by following the general principles of prevention set out in the Regulations. That process (a fundamental part of the project design) should have been started before the first planning application was made. In persisting with what appears to be a completely inappropriate access to the site, there appears to be a failure to comply with the CDM Regulations, which are statutory provisions; in which case, the present Application should be rejected on these grounds alone.

29 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 18th May 2020

I object to the above application.

This latest application for 43 dwellings follows on from two other rejected applications since 2017 from the same developers, with the last one rejected on appeal. A previous planning application on the same site was rejected in 1984.

Access and Traffic: the sole access road is unsuitable. Oakhurst Rise is narrow, bendy, and very steep. In winter it is often impassable and many cars on the road are left stranded when snow falls or ice forms. The road is not gritted by the council. The increase in traffic will have a detrimental effect on our amenity with the noise and pollution. Residents of the new development would be very likely to use a car to leave the estate to access local amenities at Sixways due to the distance and steepness of the road. Most of the residents of Oakhurst Rise use their cars even for short trips due to the steep gradient. The inevitable traffic increase in the local Ewens Farm estate would make what is already a busy rat-run even more unpleasant for the residents.

Visual Impact: the design and layout of the dwellings is disappointing and not at all imaginative. If houses do have to be built on this meadow, could they not have been designed to blend in, be eco-friendly and show some sympathy for the surroundings? Green roofs would reduce the visual and flooding impact. The visual impact on the view from Leckhampton Hill should not be underestimated and there will be an obvious loss of a large chunk of green land at that contour, which is currently predominantly green up to the top of Cleeve Hill. Developing this land would set a precedent for covering all of the hillsides around Cheltenham with buildings.

Amenity: we live at the top of Oakhurst Rise, and we chose to live here because it is a cul-de-sac, with all the benefits of privacy, lack of pollution and peace and quiet that we are lucky enough to enjoy now. This would all go if this development went ahead.

Flooding: Devastating "once in a hundred years" flooding took place again this winter. This is clearly going to happen again and paving over a large tract of this field will exacerbate the problem. Whatever the developers do, they will not catch all the extra water run-off. We have seen the effects of this first hand as there is a spring in our garden that spouts water a few days after heavy rainfall, showing how the land above us soaks up the water like a giant sponge and releases it slowly rather than in a torrent. We are also concerned about the flooding threat caused by the construction work; some years ago, our neighbour experienced a flood threat to his property caused by run-off from a small house construction site nearby in Battledown. The entire site is on deep, solid clay.

Ecology: There are keen amateur naturalists living in the neighborhood, and we have observed a great variety of flora and fauna on this field through the seasons. Whilst the latest iteration of the plans is a vast improvement on the 2 previous recent applications, it is disappointing to read the dismissive report on biodiversity in this application. It is clearly wide of the mark. No mention for example of the Red Kites and Buzzards seen frequently hunting over the field, or the noisy Tawny Owls in the hedge line near Oakhurst Rise. The surviving fauna will be confined, left to forage in relatively small areas and will quickly come into conflict with new house owners. The term "no special conservation status" seems to be used to justify ignoring much of the resident wildlife. Presumably, those ignored species will eventually move on to the "red list" of endangered species as their habitats are removed by developments such as this one?

### Trees

Ash trees are under threat from Ash die-back, and the Woodland Trust now want to conserve the type of Ash tree located in habitat found commonly on this site. The Ash trees that are threatened by this development could survive the disease and help to protect the future of this iconic species.

### Badgers

There is a large, long established, and active badger sett on the site. The colourful ecology map makes no mention of it, and in the text, it states that "legitimate parties only" can see the appendix 5487/3 relating to the badgers. The previous plan to re-locate the sett to the southern boundary seems to have been abandoned and St. Edward's School have created a farm in the area previously designated for a re-located sett. If they are to be left where they are, the badgers will be confined to a tiny, totally inadequate foraging area surrounded by housing. The foundations of the nearby houses are likely to need piling; it is illegal to do such work within 100m of an active badger sett.

### Affordable housing

The small amount of "affordable" housing on the plan may or may not appear as this is an outline planning application only. If it does materialise, it will be very expensive if the "20% below market value" approach is used. It does not seem at all suitable as a site for affordable housing.

I strongly urge the planning committee to once again reject this application to develop this special piece of land and preserve it as part of Cheltenham's carbon-neutral strategy.

27 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

As residents near the top of Oakhurst Rise, we strongly object to the proposed development.

1. If this development is allowed to proceed, how would the developers ensure the prevention of mud being carried onto the highway? My wife attends the local day centre, three days each week. It would only take one instance of a dangerously muddy road for the day centre to refuse to transport my wife on health and safety grounds - the danger of transporting a wheelchair across a steep / muddy road.

I am sure the developers already have extensive documentation covering this but what would be their position when it fails (as it will) and my wife is denied access to the day centre? I am equally sure they will be very apologetic but this will be of no use to my wife and her loss of amenity and mental health.

2. Building on this land at the top of a hill will lead to more flash floods of the River Chelt and the brooks/streams that feed into it. One small pond will not catch all of the water previously absorbed by 10 acres of green fields and dozens of oak trees. Please take time to read the Consultee document written by the Cheltenham Flood and Drainage Panel which highlights the serious shortcomings and omissions of the FRA for this application.

3. The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. The volume of traffic from the proposed development would overwhelm the existing infrastructure of the estate. All of the roads feeding Oakhurst Rise are narrow and congested with on-road parking. The existing traffic flow throughout the estate is already chaotic and dangerous at the best of times.

Oakhurst Rise is a small, narrow and steep cul-de-sac with a blind junction leading into Ewen's Road. Oakhurst Rise is inaccessible in snow and residents resort to parking their cars further down the hill. How will the extra 86+ cars cope with snow/ice? And how will emergency vehicles access the development in snow?

Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored.

>>> Policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018).

4. The proposed development would result in the loss of a significant number of trees within the application site, including a number of important TPO'd and veteran trees, the loss of which would fail to be outweighed by wholly exceptional reasons. The proposed layout would also fail to achieve the greater Root Protection Area (RPA) distances recommended by The Woodland Trust for the retained ancient and veteran trees. The site is also bordered by ancient hedgerows, protected by the Hedgerows Regulations 1997.

>>> Policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), paragraph 175(c) of the National Planning Policy Framework (2018) and the Hedgerows Regulations 1997.

5. The proposed site is a rare, organic wild flower meadow and should be protected as a matter of urgency - designation as a Key Wildlife Site or a Local Green Space would be a good start. Protected species at risk include a large badger sett, 7 species of bat (of which 5 are designated as NERC Priority Species) and dozens of species of birds.

>>>The Natural Environment and Rural Communities (NERC) Act came into force on 1st Oct 2006.

6. The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.

>>> Policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).

7. The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.

>>> Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2018).

25 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 21st May 2020

I object to the new updated planning application 20/00683/OUT, on safety concerns and as previous subjects listed below, which are the same as prior applications.

1. Increased traffic on the Ewans Estate, which is already at a critical stage during certain times of the day, and especially on Ewans Road and Beaufort Road, the proposed 43 dwellings which will mean, in the real world (2 cars a dwelling, forget Highways statement of 1.3 cars) 86 vehicles, which could mean 172 extra movements a day, minimum, on this already grid locked estate plus delivery vans etc. From my home I may see 4 cars go out in the morning and 4 cars return and maybe 4 delivery vans, now with your proposed development I may have 192 plus go past. This cannot be right. I strongly object and so do my neighbours.
2. It has been mentioned many times by residents and council officers and stated on all previous applications including the Appeal that the approach to this proposed development using Oakhurst Rise whether it's for 25 or 43 dwellings is totally unacceptable. Oakhurst Rise, is a very steep twisted Cul-de-Sac, and due to when the bungalows were built only parking for one car was required, now residents have to park their 2nd car on both sides of this Cul-de-Sac, making it an even narrower one car lane width in places. Refuge vehicles and Emergency vehicles sometimes have difficulty with access.
3. During the severe winter weather, gritting Lorries never try to approach this Cul-de-Sac, only 4x4 vehicles or cars with chains can drive up this steep gradient.

4. Oakhurst Rise junction to Beaufort Road is now a very dangerous blind single lane junction due to parked vehicles on one side.
5. Local services such as the Doctors Surgery and Schools, are already oversubscribed with a long waiting list.
6. Concern as on all previous objections, water drainage and flooding of the field. These were discussed on many occasions, but we were never given a satisfactory answer.
7. The loss of green space, an area of outstanding beauty, with wonderful protected trees, wild life, animals and birds, rare wild flora, and bats, and the deer with their young. It's all part of the rich Cheltenham diverse natural wild live we have to offer. Do we really want to destroy all this?
8. At the last hearing I had to sit through a speech by the Highways representative on why he thought the access was acceptable. If you read my objections and then read all the other objections, not only on this application but previous applications only referring to the access, surely we as objectors cannot all be wrong. I suggest Highways take another look.
9. I strongly recommend planning permission is denied for this development of 43 dwellings.

16 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

We vehemently object to the proposed latest building application of the site off Oakhurst Rise. Apart from what seems to be an almost identical application to the last and therefore in our eyes a flagrant waste of public finance, the fundamental flaws in the proposal have not been addressed and remain:

The safety of road users and residents in and around the Oakhurst Rise and Beaufort Roads, an already well documented area of concern in its current state, this development will only exacerbate the traffic and visibility issues. The road gradients of Oakhurst Rise (OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives 8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that 'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

o The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.

o The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m. In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

o Current dwellings: Ewens Road 19  
Pine Close, OR 43  
Beaufort Road 41

o i.e. the total number of dwellings: 103 at present, would increase to 146.

o Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.

o All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).

o In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'.

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The importance of protecting an abundant and rewarding area of natural beauty for this and future generations of Cheltenham residents. The land proposed for development is resident to deer, bats, badgers, owls, hedgehogs, woodpeckers, buzzards, preserved trees and many more important species. There are only so many times we can say these creatures and spaces are less important than housing needs. No one wants to live in a future metropolis held together with Tarmac.

The development would represent a serious flood risk to the proposed new residents and the existing residents in the adjoining area. It takes a day of heavy rainfall for the fields to become waterlogged. The current ecology retains the water within minimum run-off but in my belief that this development will destroy what has been a fine balance between residential infrastructure and nature.

**Comments:** 17th June 2020

Please accept this email as notice of our vehement objection to the proposed and latest building application (20/00683/OUT) of the site off Oakhurst Rise. Apart from what seems to be an almost identical application to the last and therefore in our eyes a flagrant waste of public finance, the fundamental flaws in the proposal have not been addressed and remain:

The safety of road users and residents in and around the Oakhurst Rise and Beaufort Roads, an already well documented area of concern in its current state, this development will only exacerbate the traffic and visibility issues. The road gradients of Oakhurst Rise (OR) are too steep: almost 15% gradient for the upper length leading to the site entrance; about 13.5% for the lower length joining Beaufort Road (BR): both far in excess of the standards: GCC:HRD gives

8%, VAS gives 10% but with one important qualification. The consequence is that, at those gradients, the access road will be unusable by many vehicles after snowfalls, and will be hazardous in icy conditions; with a potential risk of accidents at the junctions, because of cars and lorries failing to stop in time, or sliding into or across the two T-junctions, one at the bottom of the upper slope opposite 17 OR, and the other being the BR/OR junction which is extremely critical, because of the potential volume of traffic. At the BR/OR junction in particular the gradient of the lower length of OR (about 13.5%) continues until close to the junction without a reasonable 'dwell' area of level or reduced gradient length of carriageway in OR to assist vehicles having difficulty in stopping. In view of this potential hazard, the VAS requirements are that 'the gradient of the access shall not normally exceed 4% over the first 10m outside the public road boundary' and 'The remainder of the access should have a gradient less than 10% so that it may be used during wintry weather'; but it is impossible to achieve anything even close to this: see VAS cl. 10.3.

- The width of the access road (OR: 5.5m) is too narrow: VAS requires 6.0m for a two-way access; and in addition, because the road is narrow, the entry radius for the turn from ER into OR is tight without straying into the opposite (downhill) carriageway. This is important because of the proposed shared use by OR residents and construction traffic.

- The OR pavement widths (1.7-1.8m) are rather narrow: GCC:HRD requires 2.0m.

In summary OR does not comply with requirements for an access road to serve 67 dwellings, instead of the 24 it serves at present; i.e. as well as not meeting standards given by the documents noted, there would be a very high intensification of use.

Beside the unsuitability of OR as the access road to the site, the assessment of the effect of the development on the local roads immediately affected is flawed because there would be a substantial increase in traffic on the two roads leading away from OR: Ewens and Beaufort Roads (ER/BR):

- Current dwellings: Ewens Road 19 Pine Close, OR 43 Beaufort Road 41

- i.e. the total number of dwellings: 103 at present, would increase to 146.

- Therefore there would be a substantial increase in traffic on Ewens and Beaufort Roads leading away from OR: whereas on-street parking on these roads and Haywards Road (the next affected road for traffic towards Cheltenham) was described as 'sporadic': definition 'occurring only here and there, separate, scattered'; the street parking is nearer constant and widespread than sporadic, and already severely restricts vehicle movements on these roads, and on Oak Avenue.

- All these roads are residential roads, not suitable as transitional roads, and certainly not as local distributor roads: (a through traffic route suitable for moving traffic between different parts of the town).

- In discussing overall design concepts the GCC:HRD recommended: 'The creation of large cul-de-sac estate layouts, where a large number of houses rely on one access road, and pedestrian access is similarly restricted, must be avoided'

In summary, the traffic generated by the development would feed into local residential roads which are also steep, narrow and already congested by traffic and on-street parking.

The importance of protecting an abundant and rewarding area of natural beauty for this and future generations of Cheltenham residents. The land proposed for development is resident to deer, bats, badgers, owls, hedgehogs, woodpeckers, buzzards, preserved trees and many more important species. There are only so many times we can say these creatures and spaces are less important than housing needs. No one wants to live in a future metropolis held together with Tarmac.

The development would represent a serious flood risk to the proposed new residents and the existing residents in the adjoined area. It takes a day of heavy rainfall for the fields to become waterlogged. The current ecology retains the water within minimum run-off but it my belief that this development will destroy what has been a fine balance between residential infrastructure and nature.

I sincerely hope that the scale of the community objection to this development strikes the right cord and the application is turned down once and for all.

Thank you for your time and hopefully support.

14A Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AD

**Comments:** 5th June 2020

As a resident of Charlton Kings, I object on the grounds that this site is still unsuitable for 43 new homes to be built. The access road to the site is totally unsuitable, its too narrow and steep. It could't cope with that many vehicles going up and down it and the steepness means that people would be very unlikely to regularly choose to cycle or even walk up it. Charlton Kings is already overburdened with traffic. The travel plan indicates it would be easy for people to walk to nearby amenities but, to be realistic, they wouldn't because of the steep hill, meaning more traffic.

The area the developers are proposing to build on is an area of outstanding beauty. Local people have noted the high risk of flooding and the problems in the past with this. There are so many valid arguments against this development and the only one for it seems to be financial gain. The plans have already been rejected twice and building less houses doesn't make it any better. It still isn't a wanted development.

9 Alexandria Walk  
Cheltenham  
Gloucestershire  
GL52 5LG

**Comments:** 7th June 2020

The volume of traffic that cuts through this area to get to the A40 is already having an effect on the roads, with congestion this will cause more. The area around harp hill is naturally beautiful and take yet more open space and build housing is not i feel beneficial to this area.

12 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 30th June 2020

Severe traffic impact on our street  
Threat to the wild  
Ruins such a quiet peaceful area!

Little Orchard  
Charlton Drive  
Cheltenham  
Gloucestershire  
GL53 8ES

**Comments:** 21st May 2020

I object to the planning application and timescale.

I would specifically refer to the three points below.

- 1 Legal risk - access
- 2 Flooding
- 3 Full planning committee consideration

1 Legal risk;

At the last planning enquiry, a paper was presented and is now public record, of the deficiencies in the proposed site access. The original approval was from the highways authority based at Tewksbury, who admitted that it had been done without even a site visit.

This full professional on-site analysis, listed in detail, the reasons why the access in the proposal is unsuitable.

As a Chartered Engineer, if I approved the design and construction of a chemical plant knowing that part of that design was not fit for purpose, and someone subsequently died because of it, I and those responsible, could be charged with corporate manslaughter.

It follows that if this access is allowed to go ahead with the blessing of the town planners and their superiors in the knowledge that the access is not fit for purpose, and someone died on that access, in our litigious society, there could be serious consequences.

The question is, have these legal issues been properly explored and are planners and their management, justified in supporting an application when it is known that the access is not fit for purpose?

2 Flooding:

Cheltenham is subject to flash flooding despite a £25m flood defence scheme. Weather patterns are changing. Will future generations wonder what on earth planners were doing in recommending upstream developments such as this given the detailed analysis provided to the planning committee from Cheltenham Flood Defence experts?

3 Full planning committee consideration

There was some comment that this planning application may not be considered and debated by the full planning committee of Councillors. This planning application has been positively rejected on every occasion. The government inspector made a recommendation, for example regarding number of properties, that seemed to have been ignored.

If there is any change to current practice, shouldn't this decision be deferred until such time that the full committee can sit and deliberate?

Finally, the fact that the developers seem to be prepared to ignore the recommendations of the government inspector seems an affront to the planning process and should this in turn be taken up with government by our local MP Alex Chalk, who I understand, also opposed this development.

8 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 21st May 2020

I strongly object to the planning application on the following grounds:-

1. The application for dwellings on this land, for however many, has been turned down twice and also turned down on appeal.
  1. 2 The application is being considered by council officers and not the full planning committee. The date should be deferred until the full compliment of council staff is present.
  2. 3 The steep access in Oakhurst Rise is totally unsuitable for further
  3. building purposes as most residents have previously commented on
  4. 4 The infrastructure is not viable; local schools are full and there are waiting lists for doctors, dentists, etc.
  5. 5 The wildlife will be destroyed , including badgers, deer (roe and muntjacs), foxes, bats, snakes and bird life.
  6. 6 Flooding will inevitably be an issue, as detailed by many previous objectors.

My suspicions are that the developers, once given permission for 43 dwellings, will continue to develop further within the boundaries of the proposed land.

I therefore trust that this application will be turned down forthwith.

32 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 20th May 2020

I strongly object to this planning application for the following reasons:-

- Pressure of traffic throughout the Ewens farm estate and local access roads. These roads are already very busy and frankly dangerous at times, especially during rush hour. The 20mph limit is rarely observed by motorists using it as a rat run from London Road/Hales Road and many cars are parked on the roadsides. It is already hazardous and unpleasant to walk on these streets at busy times.
- The access road in Oakhurst Rise is a concern due to blind bends and gradient. The approach is steep, narrow and with limited visibility. It would be dangerous to have additional cars using it as an access road. Also, with a very steep gradient, these roads are unusable during icy weather. They are not gritted and are unsafe and unusable in icy conditions.
- The density of the proposed development is not in keeping with the area.
- Risk of flooding - the present infrastructure will not cope with the additional runoff water from the site. There are springs and documented flood problems on the site and adjacent to the site. The application does not take into consideration the significant flooding in the surrounding areas. Drains in the area already struggle to cope with heavy rain. I am concerned that our property may flood if this area is built on.
- Loss of wildlife habitat, hedgerows and trees. Badger sets may be extensive. Deer also inhabit the area, together with bats, woodpeckers and owls.
- Loss of a rich biodiverse site, green space and sports amenity to the community Charlton Kings.

- The development will be detrimental to the visual impact of the town and an unsightly blot on the landscape. The site is visible for miles around.
- The site is not included in the strategic plan of development for Cheltenham and therefore should not be built on.

30 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 1st May 2020

The original planning application (Ref. No: 17/00710/OUT ) was rejected for numerous reasons, which may or may not have been addressed, however, it is clear that the proposed access via Oakhurst Rise has not been changed.

It was originally held that this access would have an unacceptable impact on the local highway network, and the amenity of local residents.

Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. It was noted that alternative potential vehicular access routes do not appear to have been fully explored.

The access would therefore be at odds with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018). This was appealed and the sole access remained via Oakhurst Rise.

Since this application the number of dwellings was reduced (Ref. No: 18/02171/OUT) but the access remained the same other than the reduction of dwelling numbers and so it was also dismissed .

There remains in the plans just one single route in and out of the site, a steep gradient, accessed at the top of an already steep hill.

Access from London Road to the site is via Charlton Court Road, then Oak Avenue, then Churchill Drive, then Ewens Road, then up Beaufort Road, then up Oakhurst Rise-these roads have much on-street parking in place for much of the time.

It is acknowledged that though there may be no 'technical' objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows with regards to the access arrangements for new development consideration must be given to the genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period which would add to congestion and inconvenience to existing adjacent housing of the entire Ewens Farm estate.

The singular access route, as a whole, is tortuous and far from ideal.

The solution being proffered with this application (an offer of each household upon the first occupation of a dwelling / apartment on the new development of £750 towards the purchase of an electric bike to be secured via a Section 106 Agreement) will not compensate the surrounding residents nor is it likely to mitigate the impact on neighbouring residents.

The roads are impassable on foot in winter when snow and ice coat the hills and the pavements are treacherous as neither they nor the roads are cleared or gritted by the local authority as it is.

I am unconvinced that educating the new owners of the benefits of not using cars, as indicated in the traffic survey the developer has commissioned, will have any impact since every dwelling is being planned with parking for at least one car. If the developer was serious about reducing the impact of traffic to local residents they would insist all vehicles of all new residents be environmentally friendly or have no parking facilities at all.

Clearly this is impractical but would serve to demonstrate how essential people view their cars to be when they live on the top of a massive hill. I should know, my house is just below Oakhurst Rise at the top of the same hill.

There are no cycle paths nor footpaths anywhere near this development and there appears to be no plans to introduce any on these plans.

Walking up this hill to the entrance of Oakhurst Rise is arduous for most people, let alone on a bike. Residents of Oakhurst Rise rely on their cars and should the presence of an emergency vehicles be necessary this is will block access to this site's access entirely-as do the refuse vehicles every week during rush hour.

29 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 6th June 2020

As on previous objections, nothing has changed with regards to supporting this request. Living at 29 Charlton Court Rd the current drainage Channel does not suffice the proposed houses being built. The drainage is not managed now for the houses on the side of the school. It seems the developers are insisting in ignoring what has been recently said at council meetings and appeals regarding the environment issues .... money talks!!

Also loss of wildlife would be tragic as the deer are seen at the rear of the gardens every morning and evening, albeit some carcasses having been found in the past since the first planning application.

The area is already over run by cars speeding through as a short cut with an ever increasing child population it's a tragic event awaiting to happen.

The schools and go surgeries are already over subscribed.

The houses would not be of any help to low income and especially with the covid-19 situation of job losses and poor income.

27 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 31st May 2020

Having attended at least three previous council meeting re: this proposal, I think the case against proceeding has been well and truly made under several headings such as:

1. Environmental to the fields on St Edwards

2. Traffic on Six ways and the approach road
3. Danger of subsidence in Charlton Court road (several houses have been victims of this and needed attention)
4. Trees (18) to be cut down
5. Drainage systems not able to cope with more houses and concrete as well as the overflow system in Charlton Court Rd being unable to take additional water.
6. General disruption to the whole area for a considerable time
7. Infrastructure, i.e. schools, doctors and other essential services

25 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 1st June 2020

I wish to object to the application on various grounds

1 the detrimental effect of the dwellings on the wildlife. It has been well documented that deer are often in the field and they would be both disturbed and confused by the work and the additional houses. This could lead them to local roads with the risk of injury or death.

2 the local amenities will not be able to cope with the additional population. 43 dwellings could mean on average 160 more people looking for a nearby doctor surgery or at least 80 children looking for school places. As we know all schools (primary and secondary) are full to capacity and although it has been suggested their capacity could be increased access to the schools is very limited and this causes its own problems on neighbouring roads.

3 allowing another 43 dwellings will also put considerable strain on the local road network. As these dwellings are "affordable housing" we should assume that residents will be young and probably driving to and from schools and work. The Sixways junction at rush hour is incredibly busy and needs no more pressure and Swans Farm is increasingly used as a rat run which it was not designed for and cannot cope with.

4 the access to the dwellings is totally unsuitable. Oakhurst Rise is very steep and narrow. To expect 80 plus additional cars to use the access in all weather's is wrong. There is limited public transport so residents would rely on their own transport.

I feel very disappointed that this proposal has again been raised despite so many objections and the overwhelming decisions reached by the planning committee each time. I cannot understand how 43 dwellings can be considered when 60 have been refused. The numbers are too similar to even consider.

23 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 4th June 2020

We have recently moved to Charlton Court Road although know of the history of these applications having moved from The Ryeworth Road area of Charlton Kings.

We are very much against this development or any future developments on this site due to the following:-

## Page 293

1. Increased traffic around Ewens farm area. This is already a rat run in rush hour.
2. Total unsuitability of the steep and narrow access at Oakhurst Rise.
3. When the developers find access through Oakhurst Rise unsuitable, they will likely attempt to "buy" access through Charlton Court Road which is also unsuitable due to the gradient and ancient trees in the adjacent field which would have to be felled.
4. Increased risk of flooding. We have been informed that our garage along with other properties at the lower end of Charlton Court Road have previously been flooded during periods of high rain fall. This will only increase with more building and associated runoff.
5. We are totally against the digging up of the Road in Charlton Court Road to give access to sewerage system by properties 19-23 where there are 2 elderly households and one with young children and this will give seriously curtailed access for an extended period.
6. I believe the current sewerage system in the Charlton Court Road has suffered from blockages in the past so is likely to be more marginal with significantly more waste.
7. We are highly concerned for the local wildlife, in particular the deer and badgers who roam the fields and have a habitat within the build site. The deer have recently had fawns and can be seen in the school grounds regularly. It would be appalling to find them scared off onto the streets and discovered as road kill.
8. The houses along Oakhurst rise are small to moderate but some of the houses on the proposed site are large and such households would require large removals trucks which could be very difficult in the narrow, steep approach. In addition to this there will be appliance deliveries, supermarket deliveries, amazon deliveries significantly increasing traffic on a narrow road.
9. There is little chance that residents living in this area will walk or cycle regularly as part of their day to day activities even with the small incentive of a "free" eBike. Because of the elevation and steepness even small trips will most certainly require a car journey through the already traffic calmed Ewans Farm estate. If young children will be attending local schools they will most certainly opt to drive for similar reasons. This will in turn cause more traffic in the Charlton Kings Village which is already very congested at peak times.
10. The local schools and doctors are already over subscribed.

21 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

### **Comments:** 13th May 2020

Drainage layout sheet 2of2. Project-C21505-SK02. InsertA.

The above drawing omits both the St Edwards school boundary line and the 5 houses within the Charlton Court Rd cul-de-sac, giving the incorrect impression of an open and undeveloped area. In the event of planning permission being granted, it is proposed to direct the surface water drain from the Oakhurst Dr development through this cul-de-sac, in spite of Severn Trent expressing their doubts regarding this route. The most obvious route for the surface water drain would be direct to the water course at the bottom of the incline within St Edwards school grounds. This would eliminate the unnecessary disruption and upheaval such a major undertaking would make within the Ch Ct Rd cul-de-sac and the inevitable stress and anxiety such works would have on

the health and well-being of the two households of vulnerable senior citizens who live within the cul-de-sac

22 Charlton Court Road  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JB

**Comments:** 28th May 2020

The revised plans show no alteration in the surface water and foul water drainage arrangements which should not be coming through Charlton Court Road, vis St Edwards property to the A40, or directly through Oakhurst Rise ?

**Comments:** 7th May 2020

The measure version of the plan would not download. The other version does, but is unreadable because of the small print. It would appear that either foul or rainwater drainage is to be brought through Charlton Ct Rd as on the previous application. Is this correct ? Even when Severn Trent have expressed doubts on this ? Why not through St Edwards property to the London Road

Birchley House  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 26th May 2020

I was very disappointed to learn that following the failure of the developers to obtain planning consent at the recent public enquiry yet another application for the development of this land has been submitted. The current application fails to address the fundamental unsuitability of the site for development. There are many reasons for this which have all been aired previously but of particular concern to me are the following:-

1. The site access is through the area known as Ewan's Farm and particularly Oakhurst Rise. These roads are narrow and steep with several tight bends. Adding considerable numbers of vehicle movements to these roads by allowing the development would add significantly to the dangers posed by these roads and this was recognised as such by the planning inspector. In addition it is necessary for many of the residents of Ewan's Farm to park on the roads fronting their properties. If allowing the development meant that these residents were then not able to park on the road then this would unfairly adversely affect the amenity of their properties.
2. The fact that the land slopes towards the Cotswolds escarpment means that it is highly visible from the Cotswold Way and other beauty spots overlooking Cheltenham above Leckhampton and Charlton Kings. Presently the land adds to the green space and general attractiveness of the view. Because of its aspect sloping towards the hills residential development of the sort proposed would be highly intrusive and (unlike other development sites) could not be adequately screened by landscaping.

There are also many other reasons why this development should not be permitted which have already been articulated by other residents. Consequently I would urge the Planning Committee to REFUSE this application.

Kerrymead  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NX

**Comments:** 27th May 2020

I have objected before to building on that field - and have not changed despite the reduction in housing density. I followed the application and I object for the reasons it was rejected last time:

- Ashley House - a heritage site in cheltenham harmed
- Charlton Manor - a heritage site harmed
- Loss of ancient trees, wildlife, bio diversity, clean air
- Flood risk
- Poor access - since lockdown I have walked around the area and think the site access is absolutely shocking. it is steep and narrow so unwalkable/cyclable and you can't possibly have 80 cars going up and down twice a day to commute and drop children at school.
- Unless all primary age children are going to Holy Apostles (which has minimal capacity) then there is no way anyone will walk to school because of the steepness of the hill and the distance of the nearest primary.
- The congestion onto London Road is horrendous and routes to cross cheltenham are both already busy and involve one way systems and will therefore pollute the town.
- Local authority housing sits at the bottom of the access route - kids will no longer be able to play safely in the street, there will be a lot of pollution and noise from cars going up and down.

Highcroft  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6NZ

**Comments:** 26th May 2020

I repeat the objections which I made to the previous applications for the proposed residential development of this site .

19 Oak Avenue  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL52 6JG

**Comments:** 13th May 2020

We are still opposed to the development of this site for residential properties based on our original objections. The main ones are:

1. No provision has been made for proper sewerage and drainage, currently the proposals have sewers and drainage running into the Charlton Court Road system which is already at capacity. Surely the drainage etc can be directed to the larger system on London Road. Oak Avenue flooded in 2007 due to excess water entering the drainage/sewerage system and the residents continually have problems with the sewer pipes blocking. More properties on the "run" would only overwhelm the system.

2. Access issues. All traffic will be using the Ewens Farm estate roads which are not adequate to deal with extra traffic coming from a new development. There are 2 parks in the area and young

children are continually crossing the estate roads to get to them. We are concerned that the increase in traffic would result in a greater risk of accidents involving the children.

Coversdown  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 20th May 2020  
Letter attached.

10 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 22nd May 2020

I object strongly to the proposed development. As a resident of Oakhurst Rise, my main concern is the proposal to use this narrow cul de sac as the sole means of access to this new development.

The impact of traffic associated with this development will have a life changing impact on the existing residents of this small, well established and compact community. This will start during construction with no doubt hundreds of lorry movements. Then later there will be, I guess, between 50 or 100 daily car journeys from the 43 dwellings.

The road is very steep and narrow and is regularly at almost bottle neck with on road parked cars and vans which makes it totally unsuitable as the sole means of access to this new development.

Another concern is that the road is regularly impassable in winter due to snow and the steepness of the first section up from Ewen's Farm. This happened on four occasions during the 2018 / 2019 winter. The few residents who commute daily leave their cars at the bottom of the hill and walk up and down. That's workable with 25 houses mostly with non-working families but what will the residents of the 43 new dwellings do with their two cars each?

I urge the interested parties to visit Oakhurst Rise on an evening or weekend and see for themselves how unsuitable it is as the sole means of access to this significant new development.

The last two applications were rejected, the access is the same this time, so I trust that the current application will also be rejected.

Meadow View  
Birchley Road  
Cheltenham  
Gloucestershire  
GL52 6NY

**Comments:** 25th May 2020

I find it hard to believe that we have yet another plan to build on this land, given the judgement by the Inspector last August.

This application should be rejected on exactly the same grounds stated in his report issued last October, which were relevant to the two previous applications.

Some of these were:

- access, I believe the Inspector was appalled that the Highways Agency thought access was suitable, but then he had taken the time to actually walk up and view the site, which no one from the Highways Agency ever did. The access is totally unsuitable.
- destruction of natural wildlife habitat. Various species living on this ancient meadow have been well documented by the previous Ecologists reports and the Friends of Charlton Kings.
- destruction/damage to ancient hedgerows and trees currently protected by TPO's
- flooding risk to London Road area and properties below this development
- rights to views from AONB
- impact on Grade II listed buildings

This application should be rejected, but if not, at least postponed until a full hearing can be given, considering the history of building applications for this beautiful and ancient meadow.

Hilcot  
Stanley Road  
Cheltenham  
Gloucestershire  
GL52 6PF

**Comments:** 14th August 2020

I object to this development on many levels. Primarily because we need to protect small pockets of nature for our mental health, wildlife and the climate. This time of Covid has shown us all how important nature is to mental health and well being and this area is a key natural beauty spot for people on this side of town. We need small wild life zones which are accessible for people without access to the wider countryside as well as to maintain wildlife corridors and reduce flooding.

We do not need to build on every bit of green. The town centres are being reimaged and could provide good housing opportunities. It is short sighted to concrete over areas which on environmental, climate and mental health grounds all add value to longterm well being and quality of life for everyone.

This is in addition to all the evidence on how disruptive on a practical level this will be to the communities around this site. There is not the infrastructure to support more housing in this area.

Cheltenham House  
Clarence Street  
Cheltenham  
Gloucestershire

**Comments:** 3rd June 2020

I write further to our recent discussions that have taken place in relation to the site above.

In consideration of the proposed development at Oakhurst Rise, we understand that circa 18 affordable dwellings are being provided on the site, from a total of 43 dwellings. Within this locality we would strongly support the provision of affordable housing. We would be supportive of a higher proportion of rented accommodation against intermediate housing and for the smaller units to be provided for Social Rent. Any inclusion of 4-bedroom units for Social Rent would also be welcome.

The development is in an attractive and popular residential area and one where we would not have any concerns about letting properties.

## Page 298

As a bit of background, Cheltenham Borough Homes is the Arm's Length Management Organisation (ALMO) for Cheltenham Borough Council and are the main Affordable Housing provider in Cheltenham. Embedded in the local community, we aspire to provide the highest standards of customer service and satisfaction for all our residents, across all tenure types. With over 180 employees we cover the full range of services including an in-house repairs team and dedicated housing management and ASB team. We provide our customers with a supportive housing management and community investment function which includes providing assistance to secure employment.

With ambitious growth plans, significant low-cost funding available and appropriate approval procedures in place we would be very interested in acquiring the affordable dwellings on this site and I would welcome the opportunity to discuss this opportunity further with your agent. Please feel free to contact me with any queries.

60 Suffolk Road  
Cheltenham  
Gloucestershire  
GL50 2AQ

**Comments:** 11th June 2020

I support this application as it will provide urgently needed affordable homes for Cheltenham.

There is a waiting list of people in excess of 2000 who need affordable housing.

The site is a sustainable development within the urban area which will provide 43 homes of which 18 are affordable.

Charlton Kings has very little affordable housing and this will be of benefit to the community.

The site is in the draft Local Plan and if this was permitted this would go some way towards the houses needed in the area

The layout shows substantial areas of trees, flora and fauna, providing a natural area for many birds wildlife.

I fully support this application which will help the local community, shops and businesses at Sixways.

Chota Koti  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 12th June 2020

OJBECTS.

46 The Park  
Northway  
Tewksbury  
GL20 8RH

**Comments:** 16th June 2020

This seems a nice looking estate, just the kind me and my family are looking for.

94 Barnwood Avenue  
Gloucester  
GL4 3AJ

**Comments:** 18th June 2020

I feel like there needs to be more available housing in Cheltenham as my partner and I are looking at moving back to the Cheltenham area. A new housing development to gives young couples opportunities wouldn't go amiss.

6 St David's Close  
Tuffley  
Gloucester  
GL4 0PX

**Comments:** 19th June 2020

There is currently not enough affordable housing in the area and very limited opportunities for people to join the area due to people not wanting to leave.

6 Rotunda Terrace  
Montpellier Street  
Cheltenham  
Gloucestershire  
GL50 1SW

**Comments:** 29th June 2020

I support this application which is a very well balanced development scheme providing much needed family & affordable housing, as there is an acute shortage of good quality available properties in Cheltenham. This development will provide 43 new homes including 18 affordable homes which will be greatly sought after.

It will also provide the creation of jobs during the building of the site which will benefit the economy in these difficult times.

Both the school and the landowners support the application for this development and both are Charitable Trusts. This looks like a great development, ideal for new families, allowing them access to the local schools nearby which are in need of and welcome the support.

Environmentally this appears to be a well-thought out development that leaves plenty of green space around it, not only retaining most of the existing trees, but also adding to the tree population, the plans show that the area will not be over-developed and consideration to the tree and wild life habitat have been made.

The concerns regarding flooding have also been dealt with, allowing for rainwater to be retained which will not only benefit the existing area but will in fact limit any chance of flooding to neighbouring properties.

119B Bath Road  
Cheltenham  
Gloucestershire  
GL53 7LS

**Comments:** 7th July 2020

## Page 300

This is a sensible application for well needed homes, it improves the flooding issue in the town centre as well as providing homes in an urban, sustainable location.

58 Shurdington Road  
Cheltenham  
Gloucestershire  
GL53 0JE

**Comments:** 12th July 2020

Cheltenham is desperately in need of affordable Housing and this land has already been allocated for Housing Development.

18 of the 43 proposed homes are in this category.

The inclusion of Wildlife habitat and Tree preservation and Introduction should prevent any objection to this proposal.

Earls Croome Court  
Church Lane  
Worcestershire  
WR8 9DE

**Comments:** 22nd July 2020

Hopefully, on this occasion, the councillors will follow on with the recommendation from the qualified officers of CBC. This application, as the last two, complies with planning policy. It supplies desperately needed homes - and especially affordable homes. As such - it should succeed.

Redstart House  
Battledown Approach  
Cheltenham  
Gloucestershire  
GL52 6RE

**Comments:** 15th June 2020

I am writing to express my objections to the recent plans submitted for the development of St Edward's School fields. I am disappointed to see that the developers are trying yet again to proceed with their profoundly impractical plans despite the fact that two previous applications were rejected in addition to the dismissal by the Appeal Inquiry by HM Inspector (appointed by the Secretary of State for Communities and Local Government).

I believe the new version of the plans will still result in a dangerous increase of traffic locally, that the residents of Oakhurst Drive will suffer horribly from this and the ecology of the field itself and the surrounding countryside will be permanently damaged.

25 Copt Elm Close  
Charlton Kings  
Cheltenham  
Gloucestershire  
GL53 8AE

**Comments:** 15th June 2020

I want to object to the above application.

This will affect the whole of Charlton Court Road, putting them at risk of direct sewerage issues and floods. Also, the residents of Oakhurst Rise would have their lives transformed from a quiet cul de sac of small bungalows to a through road to a new estate.

I believe 4 of the submissions of support you have received are from bodies who would benefit from this. Apart from the risk to people this is a beautiful area where currently Alpacas roam. Are we going to build over the whole of this area in order to make more and more money. Does quality of life count for nothing. I'm fed up of this relentless building on green space.

I hope you will take my views and those of other locals into consideration.

Redstart House  
Battledown Approach  
Cheltenham  
Gloucestershire  
GL52 6RE

**Comments:** 15th June 2020

I am writing to object strongly to the latest planning application to build houses accessed from Oakhurst Rise. How anyone can think this steep road could be suitable to service any further housing development is beyond me...it is dangerous enough as it is and the thought of subjecting the existing residents to yet more car traffic is frankly irresponsible.

Furthermore, any development of this site would lead to the loss of very attractive meadowland. Clearly the developers have not been put off by losing twice already; they should be aware that they can apply as often as they like but none of the arguments which were previously used to successfully defeat the application have changed so they will continue to waste their money and time.

Battledown View  
Oakley Road  
Cheltenham  
Gloucestershire  
GL52 6PA

**Comments:** 15th June 2020

I wish to lodge my objections to the proposed development in respect of the above planning application.

We are suffering too much building creep into our rural areas, and if such developments as this are approved. This will cause additional traffic, noise and crowding. It was during lockdown that I really appreciated the beautiful surrounding areas that we had within walking distance. It would be a shame to spoil such area of beauty. "

1 Blacksmiths Road  
Alderton  
Tewkesbury  
Gloucestershire  
GL20 8NW

**Comments:** 26th June 2020

## Page 302

Charlton Kings urgently needs more affordable housing, this site will provide some 15/20 such houses. I urgently recommend the application for approval.

12 Goldsmith Road  
Cheltenham  
GL51 7RT

**Comments:** 2nd July 2020

I think this is a very good use of land in an urban setting. Cheltenham is in desperate need of housing, especially affordable housing.

1 glebeland  
Egerton  
Kent  
Tn27 9dh

**Comments:** 28th July 2020

I object on the grounds of Increased traffic, flooding potential and absolute devastation of wildlife.

Basement Flat  
Northwick House  
Douro Road Cheltenham  
Gloucestershire  
GL50 2PF

**Comments:** 21st July 2020

These fields are home to a huge badgers set, fallow deer, muntjac deer, green and lesser woodpeckers, bats, tawny owls grass snakes and lots of other wildlife ... it is currently being rented by a local school and is home to several alpacas and hives of bees

I object on the grounds of the following .... traffic, flooding, devastation of wildlife ... and the list could just go on

6 Cambrian Road  
Surrey  
TW10 6JQ

**Comments:** 21st July 2020

NONE GIVEN

41 Marleyfield Way  
Churchdown  
Gloucester  
GL3 1JW

**Comments:** 23rd July 2020

NONE GIVEN

Hewden Hire Centre Ltd  
Kingsditch Lane  
Cheltenham  
Gloucestershire

GL51 9NE

**Comments:** 23rd July 2020  
NONE GIVEN

10 Wordsworth Avenue  
Cheltenham  
Gloucestershire  
GL51 7DY

**Comments:** 23rd July 2020  
NONE GIVEN

Haytor  
65 Harp Hill  
Charlton Kings Cheltenham  
Gloucestershire  
GL52 6PR

**Comments:** 26th July 2020

I wish to strongly object to the proposal to build 43 dwellings on the land adjacent to Oakhurst Rise.

Firstly, it is quite obvious that developers are exploiting any piece of land in Charlton Kings because the return on their investment is higher than in other areas of Cheltenham. This latest iteration of the proposal is evidence of that. They are clearly determined to get any number of houses built on this land as the return is quite obviously worth it. This is largely because of the primary and secondary schools in Charlton Kings which are both heavily oversubscribed and are consequently pushing up house prices. This makes Charlton Kings a difficult place in which to settle, with or without a family, as it excludes people who do not have the level of financial security to afford these inflated prices. Furthermore, shoehorning houses into every available space in this area simply pushes more and more people out and families find that their child is refused a place at a school that is less than a mile away from home even when it is in fact, their local school. This situation needs to be carefully considered and addressed by councillors as it is making life increasingly difficult for local residents.

As has been outlined in other documents submitted against this proposal, the road infrastructure is unable to cope with more vehicles. The traffic around Sixways, Holy Apostles/Cirencester Road traffic lights is already heavily congested with very long queues of traffic causing serious amounts of fumes from idling vehicles, especially during peak hours, and I am certain that more housing will exacerbate this. I am astounded that if this proposal is allowed to go ahead, a small residential road (Oakhurst Rise) will be plunged into chaos, and for this reason, it must be stopped. Local residents' lives will be turned upside down as vehicles associated with 43 dwellings (which could be up to 3 cars per household - sometimes more) will be channelled through this small road; this level of vehicular activity is not conducive to a cul de sac of this nature and approval of this planning application will undoubtedly adversely affect current residents' daily lives. This issue should be given great weight in the planning committee's consideration.

There is a distinct lack of respect to the heritage of the existing buildings (Ashley Manor and other nearby buildings). The development will quite clearly dominate the vista and will damage people's experience of this heritage asset. St Edward's School is host to many events which are enjoyed by residents and visitors to the area, and so the building and its setting must be conserved. The site is also adjacent to the Cotswold AONB which is afforded a highly protected status, and development such as this will affect the vista of the AONB from around the site. Similarly, this site

can be clearly seen from several vantage points on the AONB and will undoubtedly have a negative visual impact. In my opinion, the St Edward's site, from the London Road up towards Battledown Hill and Greenway Lane, is a very sensitive and beautiful part of the Cotswold countryside. Many people move here for its inherent beauty and others visit as it's their gateway to Cheltenham's AONB. Why should our community destroy the very precious green spaces that are being extolled on a daily basis as the nature we all desperately need to connect with to enjoy fulfilled and mentally stable lives? This plan seems contrary to all the advice about the Government's Green Recovery Plan (post COVID). Charlton Kings is indeed a densely populated area of our beautiful town, and so it is vitally important that these beauty spots are not eroded and dismissed for the sake of profiteering.

In the AONB and important surrounding greenfield sites such as this one, the biodiversity must be considered with our utmost respect, care and attention. These important areas provide habitats for a diverse group of animals and plants and it is incumbent on us all, as residents and visitors, to ensure these are carefully protected and encouraged. For this reason, this site must remain as it is.

I implore CBC, local parish councillors and the planning committee to seriously consider the points raised here, and those raised in many other comments, and preserve this area within our community now, and for future generations. One of the positives that has emerged during the COVID-19 pandemic is that people have come out in hordes to walk the roads and fields of this area and long may it continue.

4 Woodgate Close  
Cheltenham  
Gloucestershire  
GL52 6UW

**Comments:** 16th August 2020

While I was initially against this development I must admit this revised plan appears to be far more acceptable with a broad mix of housing (25 private homes and 18 affordable), some retained green areas and a lot of tree planting. I also like the idea of the flood defence/mitigation being installed by the developer and not at Council Tax payers expense later down the line.

The houses are certainly needed in Charlton Kings area, anyone living locally cannot get over how many houses have come to the market and have been sold in days despite the pandemic.

Having had a development up to my boundary fence I can understand how some of the neighbours feel, but sometimes you have to accept progress.

77 Denman Avenue  
Cheltenham  
Gloucestershire  
GL50 4GF

**Comments:** 21st May 2020

I am keen to move to the area and feel there is a strong need for new, affordable housing

57 Bafford Lane  
Cheltenham  
Gloucestershire  
GL53 8DN

**Comments:** 8th June 2020

We understand that another updated planning application has been submitted by the developers for Oakhurst Rise on the slopes of Battledown. We strongly object to the approval of this application for the following reasons: unsuitable road access, loss of green area for Charlton Kings and Cheltenham, GP surgeries are already oversubscribed and it takes 3 weeks to get an appointment at Sixways, local schools are already oversubscribed, and the Charlton Kings Parish Council have unanimously rejected the application.

Thank you for taking our views into account.

4 College Road  
Cheltenham  
Gloucestershire  
GL53 7HX

**Comments:** 1st July 2020

As a Cheltenham resident who has been flooded twice (in June and July 2007 respectively) in College Road, I fully support this development and the improvement that it will make to flood alleviation in my part of the town, downstream. Even after the £22m flood alleviation works carried out in Sandford Park and Cox's Meadow post-2007, surface water levels and overwhelmed roadside drains continue to produce unacceptable levels of surface build-up. In the heavy rains we experienced earlier in June this year, several of my neighbour residents were forced to join me in the violent rains to brush the gathering surface water into the road drains to prevent build-up and risk of flooding to my property and others in the immediate neighbourhood. It is a shame that I can't upload a photograph of this on this website, as the evidence (at the time of writing this) is less than four weeks old! This new development with its intrinsic water attenuation tank will provide relief to our family and neighbours because of the reduced water flow in our area, and I strongly support the planning application for this development with its flood alleviation system.

57 Burton Street  
Cheltenham  
Gloucestershire  
GL50 3NE

**Comments:** 2nd July 2020

Looks a good development. Much better than building on the countryside.

2 Coln Rise  
Andoversford  
CHELTENHAM  
GL54 4HL

**Comments:** 2nd July 2020

Cheltenham like many towns and cities in the UK are crying out for affordable housing for the people who are finishing their education and starting out in their chosen careers. Unless they get help from their families they are not likely to be able to afford anything and have to move out of the area.

Therefore, schemes such as this one are ideal. It is introducing much needed affordable housing and not creating a huge housing estate where countryside once was. Schemes like this are excellent for this and should be encouraged over the huge ones that are being constructed by multi-national companies.

## Page 306

The fact that this scheme is also introducing the Flash Flood water Storage solution shows that they have taken notice of residents concerns and are investing in a sustainable solution as well as reducing the potential flood risk for neighbouring residents.

For these reasons, I believe the scheme should be approved.

34 Tommy Taylors Lane  
Cheltenham  
Gloucestershire  
GL50 4NJ

**Comments:** 24th June 2020

The shortage of good quality housing in Cheltenham is acute, particularly in Charlton Kings, where there is a significant shortfall. This development will quickly deliver 25 open-market homes and, an essential consideration, 18 affordable homes to the approval of some half dozen housing associations.

The application is supported by the CBC Planning Department.

"Nimby-ism" cannot be allowed to succeed.

Both the school and the landowners support the application, and both of them are Charitable Trusts.

Granting of permission would give to the community a real sign of intent to pull Cheltenham out of the recent disastrous economic circumstances and make some accommodation provision for a hopefully expanding jobs market locally.

I understand this scheme is a significant reduction on previous proposals and, among other benefits, it reduces flood risk to downstream properties by its attenuation system.

3 Manor Park  
Up Hatherley  
Cheltenham  
Gloucestershire  
GL51 3HU

**Comments:** 22nd July 2020

I wish to lodge an objection to the planning application in Charlton Kings for 43 dwellings submitted under reference 20/00683/OUT.

I object on the grounds of wildlife preservation. There are a number of animal species, for example deer, woodpeckers and owls who have made these fields their home. Because of this I strongly believe this area should form part of the Charlton Kings conservation area.

I am also concerned about the increase of traffic in the surrounding area. The area around these fields is heavily residential and the roads are narrow and not fit for purpose for significant increased volume of traffic, and resultant pollution and safety for children is a real issue

The council have a responsibility to maintain the quality of the environment for future generations and should reject the planning application for these reasons.

14 Butterfield Court  
Bishops cleeve  
Cheltenham  
GL528rz

**Comments:** 7th July 2020

Cheltenham needs decent homes for many people, the young, families and the old, not least in Charlton Kings where the demand for both private and affordable homes is both very strong and just unavailable. This development will deliver 25 private homes and a mixture of 18 affordable homes, to the approval of at least six Housing Associations.

We all understand local residents objecting, no one likes change, however they have their houses and are attempting to stop other people getting what they want in the area they would like to be in. The application is supported by the CBC Planning Department.

8 Station Street  
Cheltenham  
Gloucestershire  
GL50 3LX

**Comments:** 7th July 2020

I am of the opinion that this planning application has many merits. Cheltenham is in need of quality development and homes for many people of all abilities, the young, families and the old/infirm. The development would provide 18 affordable dwellings for which there is a deficit in the area. I also note that there will be benefits for the school by way of a much needed financial uplift to improve their facilities and to carry out essential maintenance.

First Floor  
3 Lansdown Crescent  
Cheltenham  
Gloucestershire  
GL50 2JY

**Comments:** 24th June 2020

This is a very well balanced thought out development scheme providing much needed affordable housing particularly in the Charlton Kings area. The concern regarding flooding has been dealt with allowing for rain water to be captured and stored on site which in fact limits any chance of flooding to neighbouring properties. It seems that all considerations have been taken into account and therefore this development should be permitted.

Cottsway House  
Heynes Place  
Avenue Two  
Witney  
OX28 4YG

**Comments:** 2nd June 2020

Letter attached.

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 6th September 2020  
Letter attached.



2<sup>nd</sup> July 2020

Regent House  
65 Rodney Road  
Cheltenham  
GL50 1HX

Emma Pickernell  
Planning Department  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
GL50 9SA

01242 230066  
www.ridge.co.uk

Dear Emma

**Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration at Land adjacent to Oakhurst Rise, Cheltenham (Ref. 20/00683/OUT).**

Ridge and Partners LLP would like to make a number of comments in support of the above application. This letter seeks to focus on the acceptability of the principle of development.

The site is allocated in the Cheltenham Borough Emerging Local Plan under Policy HD4 for *"a minimum of 25 dwellings, subject to masterplanning"* as set out within the Cheltenham Plan Main Modifications October 2019. Given the emerging local plan is in its final stages of its examination process, with the Inspector's report released on 17<sup>th</sup> March 2020, it is considered due weight can be given to its policies. The Plan is at an advanced stage in its preparation and its allocation has been endorsed by the Local Plan Inspector and still by the Council. For the purpose of determining this planning application we therefore consider that the significant weight be given to its allocation when considering whether the principle of development is acceptable or not on the site.

The proposed scheme is broadly in accordance with Emerging Policy HD4 by seeking to deliver 43 dwellings on site. The decision to allocate the site for 25 dwellings is made as a minimum figure. That number will not have had the opportunity to scrutinise the site's constraints and opportunities in the same level of detail that a planning application will. Indeed, the NPPF encourages developers and LPAs to make efficient use of land whilst of course having regard to the character of the area in which a site is situated. Further, the use of the word 'minimum' when referring to a site's allocation is surely favoured in places like Cheltenham which are heavily constrained by the Green Belt and AONB and where full use should be made of those land opportunities that do exist in the urban area so as to relieve pressure on those constraints now and in the future. The delivery of development will seek to significantly boost the supply of housing within the Borough, and deliver 18 affordable dwellings that are urgently needed for the 2,500 people that are on the affordable housing shortlist in Cheltenham.

When assessing the proposals against the Joint Core Strategy, it is clear the development is in line with its overall spatial strategy by meeting the need to deliver at least 10,917 new homes within Cheltenham (Policy SP1) well within its development boundary (Policy SP2); thereafter complying with Policy SD10. Furthermore, the delivery of 43 dwellings has sought to make the most effective use of the site, as advocated in Policy SD10 and Chapter 11 of the NPPF, by allowing for a density of development which also takes into account previous comments received by the LPA and the Planning Inspectorate in relation to previous applications submitted.

In light of those comments, the number of dwellings proposed has been reduced where originally a scheme of 90 dwellings was refused at planning committee in July 2018 (with an officer's recommendation to permit)<sup>1</sup>, and subsequently a scheme of 69 dwellings was dismissed at appeal in September 2019 on heritage grounds and the impact on trees<sup>2</sup>. The amended scheme has sought to address the reasons for dismissal by ensuring no harm or loss is caused to the trees on site, and substantial planting is now proposed to further screen the development from surrounding heritage assets as well as softening the proposal within its wider context. The tree officer has already commented on the application raising no objection.

Furthermore, the scheme has drastically reduced in scale with the dwellings accommodating the northern and western parts of the site, ensuring appropriate distance is achieved between the built form and the heritage assets, namely Charlton Manor House, Ashley Manor House and Ice House. This is considered too broadly accord with the requirements of Emerging Policy HD4. Whilst Historic England have raised an objection to the amended scheme, they recognise that the proposals now represent a less intensive form of development. Any identified harm identified now needs to be weighed in the balance. As concluded within the accompanying Heritage Impact Assessment<sup>3</sup>, the amendments made to the proposals result in less than substantial harm to the setting of the three heritage assets, at the lower end of the spectrum. Indeed, for the more intensive scheme of 69 units the appeal Inspector's conclusion stated that it would cause less than substantial harm, at the higher end of the spectrum. It follows that a smaller scheme, located more appropriately on the site and with additional landscaping will cause less harm. Therefore, to be weighed against the less than substantial heritage harm are the benefits which are still very substantial:

- The proposals would contribute to the supply of housing within the borough, and particularly the provision for affordable housing where there is a clear identified and urgent need;
- The provision of jobs within the construction industry for the duration of the development (which was previously given moderate weight due to the short term nature);
- The proposal will bring significant financial benefits for St Edwards School, which will secure its long-term future as well as providing the means to improve their current facilities, which are enjoyed by other schools and the local community;
- The proposals seek to conserve and enhance the vitality of existing services and facilities within the local area, particularly at Sixways;
- An increase in green infrastructure – this has been significantly enhanced as part of the amended scheme through the reduction in built form and influx in green space at the western edge of the site and through additional, significant landscaping (including the retention and protection of veteran trees);
- This land which is to be publicly accessible will enable more people to appreciate some of the heritage assets near to the site;
- The influx in green infrastructure is considered to provide key ecological enhancements to the site. This includes a long term habitat for the wildlife, trees, flora and fauna within the development itself, but most importantly within the 30 acres of "Parkland" to be transferred to the School, as well as a permanent and long term habitat for badgers; and
- Proposals for managing flood risk will lead to a betterment in the area.

In addition, previously officer's gave limited weight at the time for the potential land allocation for housing development at the site (as part of the Cheltenham Plan Pre-Submission Document). Given the greater certainty of

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<sup>1</sup> Ref. 17/00710/OUT.

<sup>2</sup> Ref. 18/02171/OUT; Appeal reference: APP/B11605/W/19/3227293.

<sup>3</sup> Prepared by Grover Lewis Associates Ltd (April 2020).

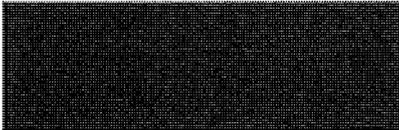


the site's allocation under Emerging Policy HD4 becoming adopted, greater weight can now be attributed to this key benefit as the Council are now reliant on its delivery to achieve a five year housing land supply.

As set out in paragraph 124 of the previous dismissed appeal decision: *"There is still potential for the site to be developed in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future, the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing land supply for Cheltenham to above five years."* Within this in mind, and taking into account the proposals comply with the JCS and Emerging Policy HD4, it is requested that officer's support this *"lesser scheme"* to not to undermine the imminent adoption of their emerging plan, or their reliance in achieving a five year housing land supply.

I trust this letter will be reviewed and considered as part of the determination of the planning application. If you require any further clarification on any of the matter raised within this letter please do not hesitate to contact me.

Yours sincerely



**Guy Wakefield**  
**Partner**  
**For Ridge and Partners LLP**  
**[gwakefield@ridge.co.uk](mailto:gwakefield@ridge.co.uk)**



Ref: 20/00683/00T



Wadleys Farm,  
Ham Lane,  
Charlton Kings,  
GL52 6NJ  
19<sup>th</sup> May, 20.

Dear Madam,

Once again I must oppose ANY development on the site next to St. Edward's Prep. School using Oakhurst Rise as the access, even though "outline" permission is being sought for fewer houses than previously.

This is a "Private Green Space" subject to conditions in the Town Plan, and development of any sort on this green field site would not in any way "retain and enhance existing landscapes"

The site supports a wide variety of wildlife and remaining as it is, is without doubt the preferred option for the Environment, St Edward's Prep. school and the residents of the area, particularly those of Oakhurst Rise.

If permission is given, the impact it would have on the locality would be appalling with noise & disturbance and much increased traffic (heavy duty builders lorries, refuse lorries, deliveries & private vehicles) to the detriment of

St Edward's School, res. Page 314 of Oakhurst Rise and  
Ewers Farm.

Planning permission has been refused twice  
for similar applications and I hope Cheltenham  
Borough Council will be consistent in refusing  
this application yet again, and thus preserving  
a green open space instead of consenting to  
tarmac and dwellings.

Yours faithfully



Charlton Kings

Cheltenham

GL53 8E

20 Aug 2020

01242252664

3

Planning Application 20/00683/ OUT



Dear Planning Officer

I wish to OBJECT to the above application, my grounds are

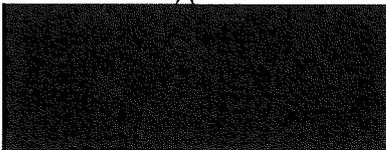
- 1.. The traffic issue, the new development will mean heavy construction vehicles using a very narrow and busy road. Following the construction those living in the development will use cars when traveling to work, tacking children to school and various service vehicles. It is unlikely people will walk, as the road is steep, and the paths are narrow. Because of the gradient people are unlikely to cycle and could also be put off by the road traffic. The access points onto the main traffic points are now busy throughout the day, not just in the 8-9 morning period and 3.30 to 6 in the evening. My view, having looked at various development plans, is that traffic considerations are no longer factor, even when it results in more congested roads.
2. The disruption to people's lives in the area, both during the building phase and thereafter. Again, I suspect this is of little account to the development company and the Carmelite order.
3. The whole process has been very cynically presented. The developers, I suspect, have put in a plan for 90 houses, expecting to be rejected, then submitted a plan with fewer houses. They I imagine, had always a figure much lower than 90 at which they could still make a profit.
4. The role of St Edwards School regarding this overall proposal has changed. This is still more strange given that the Carmelite order are the owners of two pieces of land, one the proposed planning application site and that of St Edwards School off the London Road. When the first application was first made, they were strongly against and I think mobilised parents to object. However, they are now in favour of it. Looking at the Supports, comments many have come from people who say their children are at the school and this agreement with the developers will give further financial support for the school. These supporters have little interest in the lives of the people directly affected by the development. Nor do they consider the effect on local support services, such as schools, doctors etc.
6. Little attention has been paid to where the occupants of these houses, which are built with families in mind, will send their children in an area where local primary or secondary schools are oversubscribed. Will St Edwards offer free places?
7. Under the "Report to Cheltenham Borough Council, Report of the Examination of the Cheltenham Plan 2011-2031, paragraphs 58 and 59" ref HD6 and MM016, suggests the site could accommodate a minimum of 25 houses and that consideration of the environment and local houses, should be considered.. The current proposal is for 43 houses, with 18 affordable. This factor will appeal to the Council. However, I would query whether the developers will deliver this number. Developers have said on other sites that that a number of affordable houses will be built, yet when building is underway, they say they can no longer afford to build the agreed number. In addition, I query what affordable in this development will mean. The affordable houses have to be ones that are in keeping with the ones that are for sale. It is possible that the affordable

ones will be offered for sale at a figure beyond £250,000. (Page 316) With a 10% deposit this would mean a mortgage of £225,000. Even with a 25 year mortgage and the present low interest rate, the monthly repayment of approx. £1000. Hardly the sort of sum a young couple could afford if unless their joint salaries were approx. £50,000 a year. Looking at property prices in Cheltenham. A three bedroom semi built in the 1950's on the Beeches Estate is on the market for £400,000, yet a similar 1950's semi, now extended in Warden Hill is listed at £350,000. Affordable in is a different value, when location is taken into account. Some of those supporting the application do so, because they are looking for affordable properties, I am not sure these houses, if built would be affordable to them.

I have no doubt this application will be approved as little consideration is given to the above factors. No doubt this is the type of application the government talks of is taking too long. Is this because developers put in applications knowing they are unacceptable and are prepared as in this case to make new applications until the proposals are accepted, at a number of houses that they can still make a profit on.

To me the main issue is whether it is acceptable to have such a development off a single access road, at the top of a hill. Additional no account is taken of the disruption to the quality of life of those in the immediate neighbourhood. It is not surprising people have little confidence in the planning process.

Yours sincerely

A large black rectangular redaction box covering the signature area.

From:



Tall Timbers  
Ashley Road  
Charlton Kings  
Cheltenham  
GL52 6NS

Director of Planning- Cheltenham Borough Council  
Cc: Cheltenham Planning Committee members

(by email)

11<sup>th</sup> May 2020

Dear Sirs

**Planning application 20/00683/OUT - Objection - Safety concern re access and other matters.**

Many of the planning committee members will be aware of the safety concerns that I raised in relation to the previous applications that have been made for this site and in particular access to the site via the Oakhurst Rise Ewens Road/Beaufort Road junction. The current application does not address these concerns. I have, for your ease, reproduced the statement that I made to the Appeal Hearing in August 2019 at Appendix 1 to this letter.

The planning committee wisely chose not to approve the previous application (18/02171/OUT) at their meeting on 21<sup>st</sup> February 2019. The meeting minutes record the concerns of several of the Councillors in relation to access via Oakhurst Rise. Immediately prior to voting on refusal it was confirmed that access via Oakhurst Rise would be recorded as a reason for refusal. At the following planning meeting on 21<sup>st</sup> March the committee voted to delete concerns about highways as a refusal reason because of "the likely extent of costs" should there be an appeal.

In refusing the appeal that took place following the committee's February decision (APP/B1605/W/19/3227293) the Planning Inspector concluded, inter alia, "*notwithstanding the lack of any objection from the highway authority, this factor [access via Oakhurst Road] militates to some degree against the grant of permission*".

We also heard at the appeal that the developer's planning consultant, an ex-employee of Gloucestershire Highways (GH), had met with employees of GH on several occasions and been afforded the opportunity to persuade them of his views. I would warmly welcome the same courtesy and have requested such meetings historically but been refused.

I would urge the planning officers and the planning committee members to refuse this application on the basis of unsafe access in addition to the harm to designated heritage assets and the degree of long term risk to retained trees.

Yours faithfully



By way of background I trained as a Civil Engineer, and became a Chartered Engineer and Member of the Institution of Civil Engineers in 1986. I majored in transportation, road design and drainage. I was a design engineer working as a Consultant for the Department of Transport and I was involved in the design and supervision of the construction on major parts of the following road schemes, the M42 - Water Orton to Tamworth, the M54 in entirety, the A5 Improvement scheme Telford to Shrewsbury and the Shrewsbury bypass, the A483 Oswestry by pass as well as the many smaller road improvement schemes involved with each of these major projects. I am well versed in the design and safety of highways.

I object to the application to build 69 properties on land adjacent to Oakhurst rise primarily because of the unsafe nature of the proposed access via Oakhurst Rise and its junction with Ewens Road/Beaufort Road . The access proposed is contrary to the Gloucestershire Technical Specification for new streets (TSfNS), inconsistent with the Local Transport Plan and not in accord with the National Planning Policy Framework (NPPF).

The TSfNS requires, at 1.17, “that the maximum longitudinal gradient on a minor road approach to a junction should not exceed 5% (1 in 20) for a distance of 15 metres. A copy of the relevant part of the TSfNS is attached to this statement at Appendix A. For the record the last 50 metres of Oakhurst Rise before its junction with Beaufort Road falls at a gradient of just under 15%.

The TSfNS also suggests 5.5 metre carriage way widths and also calls for 2 metre footways and wider is recommended if non-vehicle use is to be encouraged. At the bottom of Oakhurst Rise where it connects to Ewens Road/Beaufort Road the Carriageway is only 5.5 meters wide with footways of 1.6 and 1.8 metres width. So, not only is the gradient nearly triple of that allowed in the TSfNS but there is no opportunity to build protected cycleways because the footways are already too narrow.

The transport plan produced by the appellants Consultants Cotswold Transport Planning (CTP) include as one of its main aims to “*increase walking and cycling*”. So, examining safe design for those cyclist, the Gloucestershire cycle facility guidelines published in March 2012 recommend a maximum gradient of 3% for any length of cycleway over 100m. The relevant part of these guidelines are attached to this statement at Appendix B. I have also reproduced in appendix B some of Highways England’s interim advice note on cycle traffic and the roads network where it states, inter alia, “*the speed of travel is another important factor to consider, as well as the length of the gradient. Steep gradients can lead to high speeds for descending cyclists or low speeds for climbing cyclists, which can create hazards for all users of the route. Stopping distances also increase significantly on gradients in excess of 3%.*”

For the record, the distance from the junction at the bottom of Oakhurst Rise to the start of the new development roads is approximately 200 metres. The elevation gain in that 200m is around 20 metres (from 93m ASL to 113m ASL) - this is a gradient of 10% for 200m not a maximum of 3% for anything over 100m which is recommended in the Gloucestershire Cycle facility guidelines. Oakhurst Rise, the access to this new development, is a steep gradient and it will create hazards for new users of the route.

Gloucestershire Highways did not address the safety concerns in relation to the gradient of this junction in any manner in their December 2018 report on the development. Unfortunately, when questioned on the matter at the planning meeting in 22<sup>nd</sup> February 2019 Gloucestershire Highways stated the following: “*regarding the gradient of Oakhurst Rise, Oakhurst Rise is a publicly maintainable historic highway which has served 30+ dwellings for a number of years. There is nothing to suggest that this section of highway is unsafe and there have been no personal injury collisions recorded.*”

I have reproduced the relevant part of CTP's technical note CD N2 at Appendix C to this statement in which they seek to address this major safety concern voiced by many of the public in their comments on the application. BUT I have concluded that CTP may have an issue with the dictionary or vocabulary that they use in their word processing systems. In the residential travel plan and transport assessment done by them in August 2017 this key item was not spoken about and the word gradient did not appear once in either report. Similarly, in the updated documents produced in October 2018 the word gradient was absent again. Now in document CD N2 produced by CTP for this hearing the word gradient is used five times: twice in headings, twice in describing some of the objections that have been made and finally once in seeking to respond to those objections.

However, you can see from Appendix C that CTP seek to address these perfectly legitimate safety concerns with the statement "having undertaken numerous site visits along Oakhurst Rise without difficulty, witnessed other travellers using this section of highway, and seeing no evidence before me in the form of personal injury collision data that demonstrates there to be any pattern of highway safety concerns, I conclude that Oakhurst Rise is acceptable to serve the additional traffic that will be placed on it."

On the first point I have undertaken numerous trips up the A417 in the last 20 years without difficulty and seen other travellers using this section of highway but there have been over 40 serious injuries and 13 fatalities on that road during that time. CTP's "observations" are not seriously to be relied upon. Looking at the data that has quoted I presume that both CTP and Gloucestershire Highways have referred to what is often called "Stats 19 data" in quoting "no personal injury accidents recorded." For those of you unfamiliar Stats19 data it is the core set of statistical data which each police force is required to collect for personal injury accidents reported to them. It would not show that I fell off my bike at the bottom of Oakhurst Rise and went to hospital with a broken arm unless I had reported that to the police. It would not show

that an amazon delivery van had run in to the back of the occupant of #5 Oakhurst rise, causing them whiplash unless they went to the police.

The stats19 data actually carries with it the following health warning *“it has long been known that a considerable proportion of non-fatal casualties are not known to the police.”* This data is useful to Highway Engineers generally for identifying the most serious accident blackspots such as Nettleton Bottom on the A417. It is also used to identify causal effects such as increases in drunk driving or accidents caused while using a mobile phone.

Stats19 data is generally NOT used to clear an engineer from their obligations to model the safety of a steep approach to a major road when traffic and cycle volumes are proposed to triple. In fact my engineering experience would suggest that to go ahead with this scheme, without considering the changes that the scheme will impose on this junction from an engineering safety point of view is bordering on negligent. It's a preposterous response. Its equivalent to me as a bridge designer saying “the bridge has been fine so far, therefore there should be no problem in it carrying three times the load” or an aeronautical engineer saying “planes flown OK so far, I am sure that plane can carry another 50 or so passengers!”

What I hope this appeal hearing will take as facts are:

1. The proposed access to the development has a down gradient for the last 50m approaching the major road of 15% and the relevant design documents calls for only 5%
2. The relevant Cycleway design criteria calls for a maximum gradient of only 3% for 100m versus the proposed access via Oakhurst rise with 10% for 200m
3. Statistically increasing traffic (car and cycle) volumes reduces road safety
4. The appropriate safety audit for this proposed access route has not been carried out and no resultant mitigating actions are proposed

The National Planning Policy Framework (NPPF) states at paragraph 109 that “development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety” and that for approval to be given “any significant impacts from the development on highway safety, should be cost effectively mitigated to an acceptable degree”.

No credible engineering work has been carried out to assess the impact of this scheme on road safety and there have certainly been no mitigation actions proposed. For this reason I would advocate that this Appeal be refused.

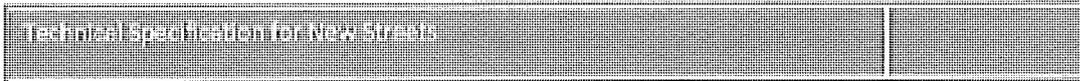


Table 1.11 – Vertical Curves

Design Speed (kph)	Desirable min. Crest K value	Absolute min. Crest K value	Absolute min. Sag value	Min. Vertical curve length (m)*
50	10	65	9	30
32	65	65	9	30
24	65	65	9	30

\*With evidence based justifications relaxations may be permitted.

Gradient at Junctions

- 1.17 The maximum longitudinal gradient on a minor road approach to a junction should not exceed 5% (1 in 20) for the distance specified in Table 8.2 measured from the nearside edge of the major carriageway. It should be noted that when the minor road approach to the junction is downhill rather than uphill a longer distance with a gradient not exceeding 5% is required. This is intended to reduce the risk of vehicles sliding onto the major road in icy conditions.

Table 1.12 - Maximum Distance for Longitudinal Gradient at 5%

Minor Road	Major Road	Distance along Minor Road measured from nearside edge of Major Road Carriageway [metres]	
		Downhill Approach	Uphill Approach
Residential Road	Residential Road	15m	10m
Residential Road	Local Distributor	20m	15m
Local Distributor	District and Distributor	30m	15m

**Frontage Access**

- 1.18 The Council will not usually consider a private access serving fewer than 6 dwellings (inclusive of any existing dwellings) for adoption. However, the Council will apply the Advanced Payment Code to all development comprising 2 or more buildings. You are encouraged to create layouts and construct the street to an adoptable standard regardless of whether the access is to be offered to us for adoption.
- 1.19 The Council cannot insist that an access serving a development is adopted, but a developer should consider the following factors when deciding whether to offer an access for adoption or whether to retain it as a private access:

The speed of travel is another important factor to consider, as well as the length of the gradient. Steep gradients can lead to high speeds for descending cyclists or low speeds for climbing cyclists, which can create hazards for all users of the route. Stopping distances also increase significantly on gradients in excess of 3%. Designers shall carefully consider the combination of horizontal and vertical geometry where gradients are greater than 3%

*“Cycle Traffic and the Strategic Road Network” - Highways England Interim Advice Note 195/16*

- Oct 2016

6.4.11 The maximum gradients for routes used by cyclists should generally be no more than 3%, or 5% maximum over a distance of 100 m or less, and 7% maximum over a distance of 30 m or less.

*“Manual for Streets” - Department for Transport 2007*

Geometric design requirements for on highway gradients:

Length	Recommended maximum gradient
Over 100m	3%
30 - 100m	5%
0 - 30m	7%

*“Cycle Facility Guidelines” - Gloucestershire County Council March 2012*

**Width and Gradient of Oakhurst Rise**

## Summary of Objection

3.4 Objections have been raised in regard to whether or not Oakhurst Rise is wide enough to accommodate additional development traffic, and also whether the gradient is acceptable to serve the development.

*CTP Response*

3.5 *The TSfNS specifies on page 10 that a minimum width of 5.5m is required for a cul-desac. On-site and topographical survey measurements confirm Oakhurst Rise is 5.5m, and is therefore an acceptable width.*

3.6 *Having undertaken numerous site visits along Oakhurst Rise without difficulty, witnessed other travellers using this section of highway, and seeing no evidence before me in the form of personal injury collision data that demonstrates there to be any pattern of highway safety concerns, I conclude that Oakhurst Rise is acceptable to serve the additional traffic that will be placed on it in the event the Appeal is allowed.*

**Propensity for Walking or Cycling due to Gradient between London Road and Application Site**

## Summary of Objection

3.33 General objections are made on the basis that the gradient of Oakhurst Rise and connecting roads to London Road will discourage residents from walking and cycling, thus rendering the development over reliant on car travel.

*CTP Response*

3.34 *The gradient of Oakhurst Rise and Beaufort Road is likely to have some impact on the choice of travel by residents of the development, but it is not prohibitive, and the fact remains that the site does provide opportunities to walk and cycle, in addition to providing access to bus stops on London Road, all within distances prescribed within prevailing design guidance.*





tworivers  
HOUSING

Rivers Meet, Cleeve Mill Lane, Newent  
Gloucestershire, GL18 1DS  
Tel: 0800 316 0897  
Email: customerservices@2rh.org.uk  
www.tworivershousing.org.uk

3rd June 2020

Dear Laurence

**Site: Oakhurst Rise, Cheltenham**

Further to our recent discussions regarding the proposed site at Oakhurst Rise in Cheltenham, we are writing to confirm our support of the development to deliver circa 18 affordable homes out of a total of 43 new homes.

There is clear need and demand for the provision of affordable homes in this locality, both rented and shared ownership, now more so than ever. We would be supportive of a higher proportion of rented accommodation (both Affordable Rent and Social Rent) and also welcome the inclusion of a 4-bedroomed home. We would have no concerns about letting the rented homes and selling the shared ownership.

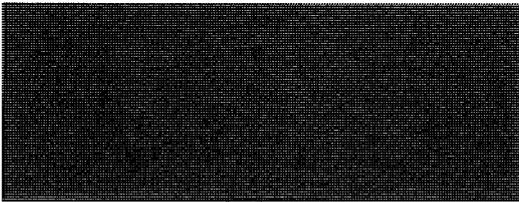
Two Rivers Housing was set up in 2003 as a stock transfer organisation and have continued to grow since this time, now managing over 4,000 homes. Our operating area covers Cheltenham, Tewkesbury, Gloucester, Stroud, the Forest of Dean, West of the Cotswolds and East Herefordshire. We have a robust development programme with the aim to deliver 100 new homes a year and have strong working relationships with our Local Authority Partners and Homes England.

As an organisation we are focused on delivering sustainable communities and work hard to deliver excellent customer service. Two Rivers Housing has its own in-house Clerk of Works, Repairs and Maintenance Team which includes grounds maintenance, Housing Management, ASB, Debt and Welfare, Community Engagement as well as Home Ownership Sales Team. We also have a subsidiary estate agency called TwoCan who has a vast knowledge of the local area and sells not only Two Rivers Housing properties,

but properties on behalf of other Housing Associations, properties on the open market and Local Authority owned stock. All profits are used to support the delivery of more affordable homes.

We have been supportive of this proposed developed since the outset and are keen to work with the developer to deliver good homes for local people and would welcome the opportunity to discuss this further.

Yours sincerely



**Angharad Hodge**  
**Head of Development**

Direct line:

Email:



*"Coversdown"  
Birchley Road,  
Cheltenham,  
GL52 6NY*

Sent Via Email

18<sup>th</sup> May 2020

Mr D Oakhill  
Department of Planning  
Cheltenham Borough Council  
Municipal Offices  
GL50 1PP



Dear Mr Oakhill,

Ref 20/00683/OUT

As a resident of Battledown my house, Coversdown, joins the northern boundary of the proposed development. As such we strongly object to the application 20/00683/OUT.

I also objected to the previous applications by the same developer 17/00710/OUT & 18/02171/OUT in 2017 and 2018. No houses should be built on this green meadow. I feel strongly that there should be a limit in the number of times an application be allowed to be put forward to the Council. If the planning committee turns it down three times, that should be the limit. I wish that my letters of objection sent to the previous applications be lodged in addition to this letter.

As it is public knowledge that the previous applications were actually supported by the Planning Officers ONLY to be turned down by the council's planning committee on 3 separate occasions and also by the Appeal inspector, as we are essentially dealing with the same developer and the same site, this application should be referred to the Planning Committee and not simply the Planning Officers. If, because of the COVID situation, and until the planning committee can meet together, which I am sure they will be able to do so before too long, THE DECISION SHOULD BE DEFERRED until the Committee can meet.

**Proposed housing density**

The report states that the density of the houses was reduced on the boundaries that border Battledown. This is certainly not the case with the northern border of the proposed development. The plan shows double storey and 2½ story houses right on our boundary. In addition, the 2½ storey houses/flats will be on a higher elevation than our house and will therefore look directly down into 4 of our bedrooms, let alone our drawing room and conservatory. This is a gross infringement on rights to privacy.

According to the Battledown Estate site <http://www.battledown.co.uk/covenant.asp>, in the Deed of Covenants and Regulations, number 5 states "No person is to build on the Original Lots of Estate land more houses than in proportion of one house to each half acre of land". This proposed

development is adjacent to Battledown and in particular to my property. The proposed density of the site (shown in the Design and Access Statement is 11 units per hectare (2.47 acres) which equates to 2.225 units per half acre of land. This is double the allowed adjacent density of Battledown of 1 unit per half acre of land. Why are we only comparing the density of this site to the density of Ewen's farm and not to that on Battledown, especially as Battledown borders to the North Boundary of the proposed site? In addition, the North Boundary is where the developers are proposing all the affordable houses to be located. The 2½ storey houses/flats will be on a higher elevation than our house and will therefore look directly down into 4 of our bedrooms, let alone our drawing room and conservatory.

The Landscape and Visual Aspect Report, makes general mention of the impact the development will have on residents of Birchley Road, though it specifically avoids any mention of the most impacted properties such as Coversdown, Meadow View and Charlton Manor. This is a major oversight in the analysis, creating a clearly biased document.

In addition, as these houses are directly south of our house, they will most definitely block light and direct sunlight into our property. In winter, we would not see any sunlight whatsoever.

We purchased in Battledown specifically because of its privacy and quietness. This proposed development will totally undermine our right to privacy and quiet enjoyment.

The application is completely contrary to the Cheltenham Plan. (see below)

The Cheltenham Plan POLICY HD4: LAND OFF OAKHURST RISE describes the site and then goes onto state some of the issues with this site

Heritage assets Site specific requirements

- Approximately 25 dwellings
- Safe, easy and convenient pedestrian and cycle links within the site and to key centres
- A layout and form that respects the existing urban characteristics of the vicinity
- A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
- Measures necessary to mitigate the traffic impact of the site and to encourage the use of more sustainable transport modes
- Protection to key biodiversity assets"

It is quite clear that the developers have totally ignore the Heritage assets Site specific requirements mentioned above.

The current plan also ignores the National Planning Policy Framework (NPPF) plan that is currently going before parliament. This plan quite clearly identifies the land in this application, for an approximate 25 Houses. The proposed plan of 43 houses is well in excess of this number therefore it should be rejected out of hand. It also fails to meet the condition of the form of layout of those affected by the development.

Furthermore, I do not see any evidence that the reason the previous Outline plan 17/00710/OUT & 18/02171/OUT which the Council turned down in August 2017 and 2018, have been addressed. In the council's letter dated 16th August 2017, 5 reasons were listed and a mention was made of the NPPF. None of these reasons have been adequately addressed so this application should also be rejected.

I fail to see how this has been accepted as a new application, as even the applicant is using the same supporting documents as they did for the previous plan that was turned down. I therefore believe that as the applicant is the same company as the previously rejected plan and they have used a number of the same original documents, that all the objections for 17/00710/OUT and 18/02171/OUT should still be considered by the planning committee.

How can CBC and the surrounding residents rely on any of the supporting documentation as many have been resubmitted by the applicant from the previous applications – many of which were found to be totally inaccurate? The application should be rejected out of hand simply on the numerous inaccuracies.

Additional objection points to the current Plan are as below:

1. Charlton Kings Parish Plan published April 2017

This plan was published by the parish council to provide guidance for the next 5 - 10 years. It was produced by a public questionnaire and parish meetings. Page 8 states "a clear consensus emerged that development on open land and green spaces should not be allowed." Page 9 states "There was preference to avoid building on 'green' sites of any description, favouring future development on brownfield/waste or infill land;"

Therefore this development is contrary to the conclusions drawn by the Parish Council and the residents of Charlton Kings.

2. TPO Trees and Hedgerows

On our boundary with the proposed development, there is a magnificent specimen of an oak tree, which I have been led to believe is over 350 years old. There are also a number of other mature trees. Up until 2 years ago the St Edwards school ensured that T13 was well maintained and dead branches were removed by their tree surgeon thereby reducing the risk to damaging our house. As the tree is south west of our house and the prevailing winds are from the south west the failure to dead branch this tree would otherwise place our house at direct risk during storms. We would therefore require an undertaking by the developer to ensure this tree is maintained and also to insure against any possible damage at any time in the future to property and potential loss of life. The Developer should be required to establish an ESCROW account or an Insurance policy specifically to cover any damage that may occur to our property from this tree.

The developers have already shown scant regard for us neighbours in that they accessed the current site illegally over our properties. They also showed no regard to the TPO tree and hedgerow they removed. To date we are not aware whether this breach of the law has led to prosecution.

Secondly, I believe that the proposed houses would be built far too close to the root system of this magnificent tree. The consequences of this would most likely lead to the tree's demise. This would then place the foundations of our house and our neighbour in 29 Oakhurst Rise in danger of subsidence and cracking. In addition, any houses built within its vicinity would also be subject to these issues.

I believe that developer acted against the guidelines of the 1997 legislation on hedgerows when a large section close to my house was destroyed without the correct permission in the spring. In addition, they are proposing removing a large section of hedge row and Ash Trees in order to put in a road.

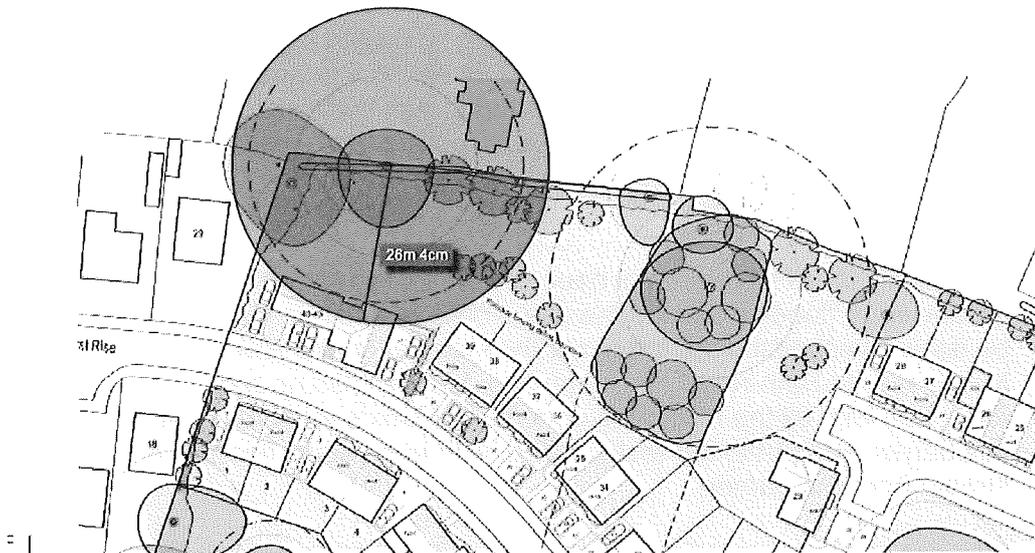
I feel that the developers survey into the biodiversity of the site is highly inaccurate and should be discarded and not relied upon. As our house overlooks part of the field we witness all the various wildlife that many other residents have already listed. Our CCTV cameras also regularly record the presence of all this wonderful wild life.

Cheltenham Planning Policy GE 2; Private Green Space states "The development of private green areas, open spaces and gardens which make a significant townscape and environmental contribution to the town will not be permitted." So, does the proposed development site meet the requirements of significant townscape and environmental contribution? It clearly has a unique environmental impact with a wide range of flora and fauna, it is kept in semi-wild condition, with once per year grass cutting and occasional tree surgery. It is a unique site that it is surrounded by buildings on all 4 sides, it is visible from the ANOB areas. It is a wonderful undeveloped area and forms part of the critical green space that goes to form Cheltenham. As such I contend that any normal person would agree the proposed development site does not meet these criteria - hence the application should be immediately rejected.

This new plan STILL does not address any on my previous objections and hence all my previous objections still stand. In particular as pertains to the houses on the North boundary that are in proximity of T13. (Note: I am using the TPO Order 96 Ref MHP 16087 as the tree references, as the applicant regularly has used the wrong references for identifying these trees.)

I have a copy of a report by Barton Hyett Arboricultural Consultants (BH), in response to the original Arboriculture report of the developer's consultants (TKC). The documents presented by TKC with regard to the TPO's and RPA's are based on guidance of BS5837 (4.6.1) whereby the maximum of 15m radius from the tree stem is being used. In fact, the Natural England and the Forestry Commission published in January 2018 that recommends that "for veteran trees a buffer zone of at least 15 times larger than the stem diameter or 5m beyond the crown edge if that is greater" should be used.

In addition, the councils own Tree Officer stated on 8 Mar 2018 "Veteran trees have not been classified as per BS5837 (2012) recommendation where veteran trees should have an automatic A3 classification. Similarly, the Root Protection Areas do not conform to the Woodland Trust and Ancient Tree Forum recommended areas equivalent to an area described as a circle of 15 (as opposed to 12 in BS5837 (2012)) times the diameter of a tree or 5 metres from the edge of the canopy. Indeed, such recommendation of no hard surfacing within BS 5837 (2012) para 7.4 recommends that no construction occurs within a RPA."



This has a significant impact on the developments in the proximity of T13 to mention one.

Using the diameter of "T13" in the report as 1505mm (Which I believe is incorrect and should be closer to 1700mm), then the RPA from the T13, that should be excluded from development, should be a radius of 22,5m.

When the correct diameter figure is applied of 1760mm diameter, this exclusion radius should be increased to 26,4m and hence the property 40-43 contravenes the RPA regulations.

These trees are hundreds of years old and should not be subject to the risk of being endangered in the name of housing. It is the housing that is encroaching on the trees, not the other way around.

The application involves the removal of 2 x ash trees, one with a TPO. The reason given last time is that 'they are of limited value because they are susceptible to die back'.

My understanding is that the TPO'ed ash tree stated for removal has been identified as a veteran by the Woodland Trust (WT). With different numbering systems being used across all the documentation that is impossible to check on a laptop!

The WT challenged the RAVEN system being used by the developers at the appeal, stating that it was not an industry recognised system (it is an in-house classification of trees used by the developer's consultants only).

In any event, this most recent study (<https://www.bbc.co.uk/news/science-environment-52582304>) casts some considerable doubt on the CBC position showing that Ash Trees within a hedgerow are far more resistant to Ash Die Back. We trust that this new study will be taken into consideration when assessing the application.

### 3. Increased Flood risk.

Historically there have always been significant issues with surface run off and groundwater flooding around the site. I believe a full and proper impact study needs to be done investigating the impact of the scheme on the River Chelt through Cox's Meadow onto Bath Road and Neptune's fountain. Some proper flood modelling is called for. Even with all the modelling done for the Cox's meadow flood barrier, the first time this barrier was put to the test, it failed, with large scale flooding of properties downstream from the barrier.

I am not at all convinced that routing all foul and rain water under Charlton Court Road will be an adequate solution at all. The ageing lower sections of the sewage system are already vulnerable to blockages and collapses according to a helpful local expert on drainage.

The consultant does not seem to recognise that there is any existing flood risk, I believe residents will tell a different story from their personal experiences.

In addition, the flood zone map created 26 March 2008 shows on page 4 a preponderance of incidents of "Recorded Flooding" in both the categories of "Artificial Drainage" and "Unknown" following the line of Oak Avenue. Anyone who has dug their garden or who remembers the old brick works will know this is an area of clay soil which is always damp.

This is further borne out in the fact that we already have a continual spring, that starts in the field and runs through part of our property, nearly all year round. If the spring runs at present with all the natural protection that the field currently affords it, what is going to happen once this water has nowhere to go due to the impermeable surfaces that will cover the proposed site.

4. Access to site

Even the Appeals inspector made mention of the inadequacies of the access to this site in his Appeals report **Appeal Ref: APP/B1605/W/19/3227293**

**I full support the detailed submission that the owners of Tall Trees have lodged on the 11<sup>th</sup> May 2020, regarding this inadequate access.**

Oakhurst Rise is a small, narrow and steep cul-de-sac. Many residents park on the road as the driveways are so steep and narrow with often dangerous drop offs due to the gradient. The gradient is 1 in 5 at the top and narrowness of the road make sole 2-way access to 43 houses from this site totally inadequate.

In snow and icy weather, the road is immediately cut off as residents prioritise the grit for the lower part of the Rise and the busy and dangerous bend and slope near Pine Close. I wonder where snow bound cars will park on congested Beaufort and Ewen's Road. How will emergency vehicles access the development in snow? The Rise is accessed via the very narrow and congested streets of Ewen's Farm; one of the worst streets being Oak Avenue. Blind bends already make these roads that are occasionally 2-way in sections dangerous.

5. Change to Cheltenham skyline

The site is a very visible green part of the visual landscape. It adjoins Battledown, which is one of the highest points in Cheltenham. As the 2½ storey building and 2 storey houses are going to be built on the crest of the development, the skyline of Cheltenham will forever be blighted. Particularly from Leckhampton Hill, the A435 and the popular Cotswold Way at Lineover Wood where the path emerges from the trees. There is no dense housing at this elevation at present and the new estate will have a very significant impact on visual amenity. It will be a scar on the tree dense and greenfield nature of the landscape at this height on the hill line as currently afforded by the properties on Battledown. This will further erode the character of Cheltenham as a scenic spa town.

6. Loss of a community recreation area

The field is used by the wider community and it is a well-regarded venue for county cross-country competitions hosted by the school, as well as being a huge draw on bonfire night when the school PTA run their fund-raiser. Children from the school benefit from the access to the field to get closer to nature, such as the popular "welly walks" from the pre-school section.

7. Damage to biodiversity.

The developers' environmental consultant claims that the majority of the site is "poor semi improved grassland" which is "regularly mown". They claim it is "short grassland" that is of "low conservation significance". I completely contest this. The developers study was done at an inappropriate time of year. I believe that other expert opinion has been obtained who believes that the site is actually species rich grassland which requires a detailed grass species survey, ideally done May-July. I understand the developers' nature survey was done in early September 2016 soon after the farmer had cut the grass down and driven over it with a tractor. Like most wildflower meadows throughout history the grass is cut once a year, contrary to the developers' claims this does not constitute regular mowing or cultivation. I must insist that a proper survey is done to establish the true status of the meadow.

8. Amenities in the area

Already the amenities in the form of schools, hospital places and Sixways surgery are under extreme pressure. It is fairly common for current residents to have to wait 3 weeks to see a GP. I also understand that the schools in our area are all fully subscribed. This proposed development will simply further exacerbate the problem.

Simple financial contributions/penalties as appear to be the norm when these issues arise in other planning applications (eg Tim Fry brown field development) will not solve the problem of residents being able to see a GP or getting places in schools as the amount of the penalty paid to the council, cannot possible pay for a new school or doctors surgery to be built.

9. Conflicts with the Local plan

I would like to point out that when reading the Cheltenham Borough Local Plan Second Review Adopted July 2006, it would appear that this application falls foul of the following objectives as set out in the above document. :-

General

O3 to protect public safety and amenity

O6 to create more sustainable patterns of development, with priority use of previously-developed land

O7 to make best use of development land

O8 to meet the needs of the elderly and people with disabilities

Environment

O9 to conserve and enhance the setting of Cheltenham

O10 to conserve the natural beauty of the Cotswold Hills

O11 to conserve and improve Cheltenham's architectural, townscape and Historical heritage

O12 to conserve and improve Cheltenham's landscape character and green environment

O13 to safeguard the countryside from encroachment and inappropriate development

O16 to protect and improve the quality of land, air and water

O18 to maintain and encourage biodiversity

Housing

O23 to secure a high standard of residential amenity

Utilities infrastructure

O30 to reduce the risk of flooding and flood damage

O31 to make adequate provision in development for the satisfactory supply and treatment of water

Transport

O32 to promote sustainable transport

O33 to safeguard the potential for the future provision of transport infrastructure

O34 to ensure infrastructure in development is provided to a satisfactory standard

O35 to safeguard or improve personal safety in the transport system

O36 to contribute to road traffic reduction and improve traffic flow

It would therefore appear that this application fails in so many of the prescribed principles as laid out in the Local Plan.

In conclusion, whilst the developers supporting documents appear to be comprehensive and all encompassing, they are far from this. They are at best extremely biased and in many cases inaccurate. They are at worst lacking in substance for a development of this scale which has far reaching implications not only to the residents of the immediate vicinity of the development but also to the greater community of Cheltenham.

We therefore implore the council to reject these plans outright.

Yours sincerely





4 Charlton Court Road  
 Charlton Kings  
 Cheltenham  
 GL52 6JB

14<sup>th</sup> May 2020



Cheltenham Borough Council  
 Planning Department  
 Municipal Offices  
 The Promenade  
 Cheltenham

Your Ref: 20/00683/OUT

PLANNING FOR LAND ADJACENT TO OAKHURST RISE (OBJECTION)

To Whom it may concern

This proposed development is leaving me with the impression that the pursuit of profit alone is driving greed beyond all reason. The effects on the surrounding area should be evident to the most obtuse minds.

The area is undisturbed with old ground cover that dissipates surface water fairly evenly over the sloping surface. Any water that does not soak into the ground flows evenly across the whole width of the plot and slowly down the slope eventually into the drains or the culvert at the bottom. The culvert has coped with this situation in the past except for July and September 2007 when the above property was flooded twice. The cause of the flooding appeared to have been work covering open ground at Whitefriars now St Edwards school behind the property coupled with debris restricting the flow into the pipe.

The culvert passes from the surface to underground at the boundary of the above property. Under ground is an old pipe of undetermined diameter said to be in good order on the purchase in 2001. It is too small to cope with any increase in water from the open culvert. This was confirmed in 1971 by Severn Trent Water who deemed the culvert to be AT CAPACITY. After remedial work was carried out by Cheltenham Borough Council (CBC) on the culvert to alleviate the pressure on the entrance to the underground pipe and control the flow further up the watercourse. This has so far been effective but it does not alter the fact that the flow can be controlled but the CAPACITY cannot be increased without enlarging the pipe which surfaces the other side of Charlton Court Road. It is apparent to me that the documentation supporting the proposed development limits its scope to the immediate environs and ignores anything adjacent to the development area that will raise negative issues.

After the flooding in 2007 I carried out some research on the land behind the above property and discovered that there were a number of planning applications on file in the CBC Planning Department, each stating 'existing facilities' as a means of dealing with surface water. As far as I could ascertain none existed. The fact that there has been no further flooding since the work by CBC (and others?) is an indication that the work was successful, however, there has been no increase in capacity. The water at the start of the underground pipe has reached the top of the entrance on a few occasions but not overflowed.

Any disturbance of the ground at the proposed development site is certain to change the flow of surface water resulting in additional water entering the culvert at

the bottom. From my perusal of the paperwork related to this aspect I cannot see any realistic solution to this problem within. The reports etc. conveniently gloss over the germane issues and stress the solutions, which to me, are the crux and should not be accepted without challenge.

Additionally, the sewers and surface water drains along Charlton Court Road, Beaufort Road, Oak Drive and Haywards Road continually require attention because this seems to be the sump for the surrounding higher ground. The assertion that the water and sewage can be controlled by using various means probably assumes the use of reservoirs and pumps etc. We have seen the results of relying on this type of solution in places like Raynham in Essex where my daughter was lucky to get out alive when the pumps failed and an underpass filled with water in minutes. With any equipment of this nature it is not a case of IF it fails but WHEN it fails.

Usually I do not get involved in this sort of hassle, I have enough of my own, but it seems to me that the people behind this proposed development are using the Chinese Water Torture to wear down resistance. I cannot believe that it is good practice to allow this type of application to roll along, reducing the numbers or making small alterations. Even ONE property with its necessary services will alter the balance. Is this what they are trying to do? Build one and the reasons for any limit are then null and void!

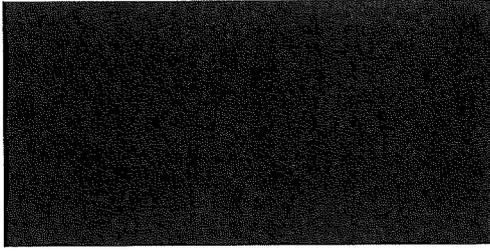
In the list of documents is C21505 Rev M April 2020 that I studied because I do not have the time to peruse the others in detail. Page 7 5.8 states as FACT that the land is classified as 'Flood Zone 1' but essentially, given the land below the site has a water course and reservoirs to control waterflow, would not 3b be more appropriate. Flood Zone 1, although not proven, was stated as FACT in following paragraphs. Their map, Fig 5 on Page 8 clearly shows the reservoirs and watercourse that was the cause of the flooding in 2007, and those further up the slope. I suspect that their capacity has not been measured.

Remedies for flooding, or indeed any other problem requiring maintenance, are only as good as the maintenance so any long-term provision will rely on a sound provision plan funded, either by a levy on house owners or an ESCROW account set up by the developer. I see no such provision. I suspect it will fall on the Rate Payers in the longer term.

Finally, to increase the capacity of the culvert means upgrading and enlarging the existing one from the back of the above property as far as it goes underground towards Cheltenham. I do not think the Developer nor the Borough Council can afford the cost of such a project.

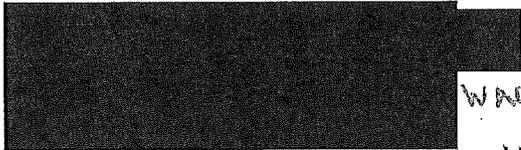
This is not an issue that can be a 'wait and see', once it is started it cannot be returned to its original state. There seems to exist an attitude that if something is not within the boundary of the development it need not be considered. There are many other issues involved in this development but I am very sure that they have been aired so I will not waste your time repeating them here. However, I would like to know if the same inducement to support the plans has been offered to St Edwards as was described in the support letter for the previous application from the then Governor.

Yours Sincerely





7



WADLEYS FARM,  
HAM LANE,  
CHARLTON KINGS,  
CHELTENHAM,  
GL52 6WJ  
19-5-20

your ref. 20/00683/00

PLANNING  
Rec'd 21 MAY 2020  
SERVICES

Dear Mr. Pickarrell,

I wish to object to the latest attempt by the very  
persistent developer to build on a totally unsuitable site at  
Cobhurst Avenue.

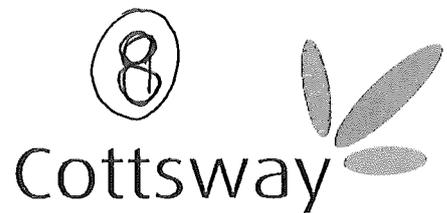
The approach road is totally unsuitable and the  
proposed site is in a well established natural area adjacent to  
a junior school.

Please continue to refuse the latest application and the  
developer might eventually get the message and go and find  
another authority.

Yours faithfully,







29 May 2020

**Site: Oakhurst Rise, Cheltenham**

Dear Laurence

Following on from our conversations about the Oakhurst Rise site, we are writing to confirm our interest in the affordable housing element of the scheme which comprises 18 homes or 42% of the development. We would support the inclusion of a greater level of rented housing against other tenures and are confident of being able to let the homes.

We would support the delivery of more affordable homes in this area.

Cottsway are a Registered Provider based in Witney, a 45 minute drive from Cheltenham. We manage existing homes in Cheltenham and have recently completed and successfully let 90 homes in the Prestbury area.

Cottsway currently manages almost 5000 homes for rent and shared ownership for over 10,000 customers. Our homes are based in West Oxfordshire, Cheltenham, Gloucestershire, Wiltshire and Worcestershire. We are in a strong, robust financial position and committed to doing more to help people in housing need. Our ambitious development programme delivers over 160 homes per year. We work in partnership with Homes England and have strong relationships with Local Authority partners. Cottsway keeps our existing customers homes in great shape with an inhouse team of skilled tradespeople. We put our customers at the heart of everything we do with a dedicated team of housing, neighbourhood, financial and welfare officers to provide support where needed.

We would be very interested in the affordable homes due to be provided as part of this development and welcome further discussions in this regard.

Yours sincerely

A large black rectangular redaction box covers the signature area, obscuring the name and any handwritten notes.

Development Manager

A black rectangular redaction box covers the contact information, likely a phone number or email address.

[www.cottsway.co.uk](http://www.cottsway.co.uk)





Charlton Manor  
Ashley Road  
Cheltenham  
GL52 6NS

4<sup>th</sup> September 2020

Dear Ms Pickernell  
Cc Gary Kennison, County Ecologist  
Juliet Hynes, Gloucestershire Wildlife Trust

Ref: 20/00683/OUT

There are a number of errors in recent correspondence on ecology regarding St Edwards School Field.

It is truly regrettable that the annual hay cut of the field has been cancelled (according to the contractor who was scheduled to cut it in early July, "the developers' ecologists need to do more work"). Such a delicate ecosystem is easy to undermine, and it is difficult to believe claims that the future of the site should be trusted to those wishing to profit from the land, when there is scant evidence the biodiversity that exists today is being protected under their stewardship.

With respect to the repeated surveys of the site in July and August (reptiles and grassland), it is regrettable that nothing has been done at the appropriate time of year, since 2016 when this site was first proposed. Any such surveys might have captured its full ecological value. Their absence speaks volumes, as the planning inspector noted in 2019.

In particular, the Aspect survey in 2020 returned a similar count to the Bioscan survey done at the same time of year in support of CBC's case at appeal in 2019 (12 vs 14 grassland species, July / August). When the meadow is in flower, a very different result might have been evident; Bioscan's principal ecologist recorded 21 species and discounted a further 4-5 found, photographed and GPS recorded by non specialists, as unproven.

Specific areas of concern or contradiction:

- The county ecologist states only 43% of the existing grassland will be retained, which sits uncomfortably with statements that 'new wildflower meadow' will be created. As is evident from photos that have already been submitted, the retained grassland is already a wildflower meadow so no 'new' creation is possible. The meadow flowers between April and June but has never been surveyed at that time (other than by Bioscan). Cowslips, vetches, woodrush, pignut, trefoils, various buttercups and cuckoo flower predominate (The protected English bluebells, photos taken 3 May 2020, can be found across the field, including on the proposed site of the driveways for houses 22-28 and across the wider site of houses 11-21), **not**, as Aspect claim, in the hedgerows).
- There are repeated statements that the meadow is mown but not baled (although Aspect's evidence to the 2019 planning appeal stated the soil had been compacted

by extensive use of machinery – that was also untrue). The field was baled the day before the inspector visited last year (photo below), and has been cut annually for as long as residents can remember. Hay is used by St Edwards School for the school farm, and is of sufficient quality to be usable by the Riding for the Disabled charity (they struggle to source organic hay locally and the school donate their surplus). Plenty of photos are available on social media.

- Various ecology statements now note that the grassland will be leased to the school for their future use. It is unclear how ecologists are qualified to make that assertion. As a primary school St Edwards does not allow children on uncut grass given the prevalence of deer ticks. In the 10 years our children have been pupils at the school, they have kept off the main wildflower area and used the walking paths cut elsewhere across the site for forest school, nature walks and more.
- There is a conflict between school use and biodiversity protection (as well as child protection, given the claimed access for residents of the new estate) – which is going to take primacy? And why should the tax payer fund (through S106 payment or otherwise) the maintenance of land that is going to be retained for the sole use of a private school?
- Aspect state that the ‘scrub’ under the ice house is to be retained in their biodiversity metric, but elsewhere in the application it states that the scrub will be removed as part of the condition to improve the ice house. Which is it?
- The most recent county ecology statement notes that mature trees will be removed above the badger sett, including ash and sycamore. This area of woodland is described as ‘scrub’ in the Aspect biodiversity metric rather than hedgerow or woodland, and the removal of the trees is not given comment in the FLAC tree report. Is the data is being used selectively to pass policy tests, rather than objectively to do the right thing by the site and the planning committee?
- The county ecologist states that mature ash “will be lost” in the next decade to ash dieback. This is unreasonable. Any mature tree could become diseased, but on that basis no tree merits protection, contrary to NPPF guidance. Natural England research indicates that hedgerow ash trees appear to have a level of immunity to ash dieback, and therefore have a particular biodiversity importance.
- There appears to be conflict between the drainage strategy below ground and the tree planting above ground (namely there are claims to an unbroken new tree belt, without explanation as to how trees can be planted over a main drain). This affects the biodiversity metrics, the claimed screening for a Grade 2\* listed building, and the claimed flood protection to the wider River Chelt flood plain.
- The county ecologist states that the pond at the top of the site will be lost to the development, counter to statements elsewhere in the proposal. Given the pond is spring fed (and has been on Ordnance Survey maps since at least 1836), where is that water going to go?
- Why is there no comment made on the loss of nearly 30% of an 150+ year old important hedgerow? It is inconceivable that this habitat could be restored or replaced within a 15 year window. Risks to any claimed new habitat include climate change affecting the survival of new planting (drought and floods have killed off any new planting across the Battledown Hill since 2017, other than non native species), the impact of the roe and muntjac deer population in residence, the steep terrain

precluding water retention and the dense clay subsoil noted in the Simpson report on drainage.

- Comments from other sources seem to have been ignored across the ecology debate, whereas the claims of William Morrison's planning consultant have been repeated verbatim. Counter views include those of the county moth recorder on record ("lepidoptera assemblage would indicate high quality grassland", first recording of chimney sweep moth in the borough since the 1960s) and HMT's inspector of planning ("there will be a net biodiversity loss to the badger population", full reptile survey necessary before permission is granted) but these have not even been mentioned, let alone addressed. This is regrettable, particularly from supposedly neutral consultees.

I would be grateful if this letter could be added to the objections associated with this application. Other objections previously raised still stand.

The failure to address the views of the statutory authority on heritage is woeful.

Kind regards





A picture taken for other reasons, identifying bluebells flowering April 2020. Aspect fail to mention their presence across the meadow; e.g. approx. 70 plants between the ice house and the northern boundary.





July 2019.

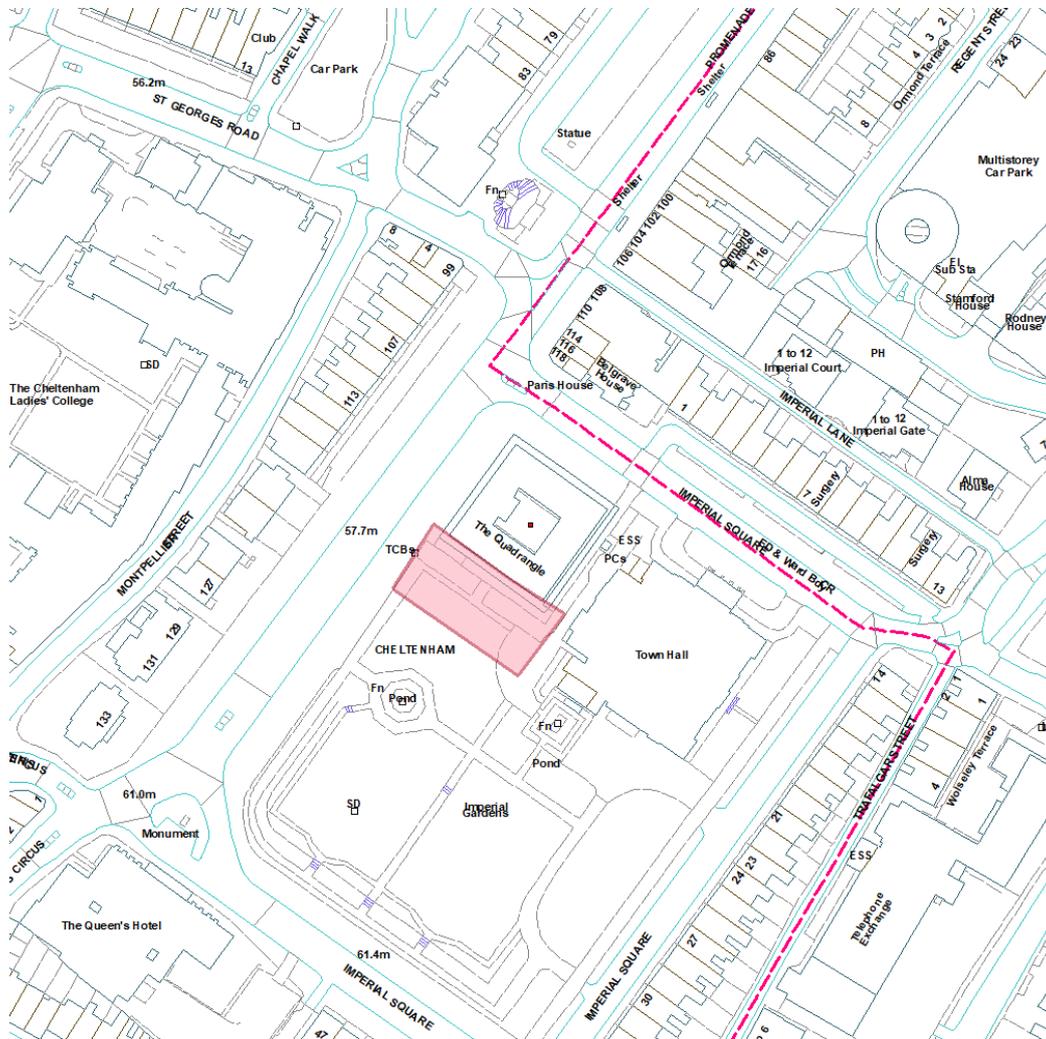


One of at regular cross country competitions that take place each year, since at least 1957. The only soil had been compacted from Children running a cross country course!



<b>APPLICATION NO:</b> 20/01223/CONDIT	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 25th July 2020	<b>DATE OF EXPIRY:</b> 19th September 2020
<b>DATE VALIDATED:</b> 25th July 2020	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	ABF Pension Trustees LTD
<b>AGENT:</b>	SF Planning Limited
<b>LOCATION:</b>	The Quadrangle, Imperial Square, Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) on planning permission ref. 19/01436/FUL to allow for minor material changes to the approved public realm improvements scheme

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is located to the southwest of The Quadrangle building and extends into Imperial Gardens. The site is wholly located within the Montpellier Character Area of Cheltenham's Central Conservation Area; and in proximity to a number of grade II and II\* listed buildings, including the grade II listed Town Hall.
- 1.2 Planning permission was granted in 2018 for the refurbishment, alteration and extension of The Quadrangle building, and the works are now well underway on site; the works include improvements to the building's façade, extensions to the ground floor commercial space, and the provision of a new roof top restaurant.
- 1.3 Subsequent to this, planning permission was granted by the planning committee in September 2019 for improvements to the public realm; to include new public exhibition facilities, external seating areas, replacement planting and hard landscaping works.
- 1.4 This application is now seeking to vary condition 2 (approved plans) on planning permission ref. 19/01436/FUL, under Section 73 of the Town and Country Planning Act 1990, to allow for minor material changes to the previously approved scheme.
- 1.5 The proposed changes essentially involve the reconfiguring of the proposed hard and soft landscaping, and associated changes to the extent and positioning of the exhibition stands.
- 1.6 As before, the application is at committee for reasons of transparency as the site extends onto land within the Council's ownership, which is designated as Public Green Space.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Business Improvement District  
Conservation Area  
Core Commercial Area  
Principal Urban Area  
Smoke Control Order

### Relevant Planning History:

**18/00277/FUL**

**PERMIT**

**10th April 2018**

Refurbishment, alterations and extensions to the existing building including facade improvements, extensions to ground floor commercial space and new roof top restaurant

**18/01722/CONDIT**

**PERMIT**

**2nd October 2018**

Variation of condition 10 on planning permission ref. 18/00277/FUL to amend the wording to read "Prior to the internal fit out of the roof top restaurant element of the scheme, a detailed lighting scheme for the roof top restaurant shall be submitted to and approved in writing by the Local Planning Authority. The agreed lighting scheme shall be fully implemented prior to first occupation of the roof top restaurant and shall be retained as such thereafter"

**19/00961/CONDIT**

**PERMIT**

**20th June 2019**

Variation of condition 5 on planning permission ref. 18/00277/FUL to amend the wording to read "Prior to the occupation of more than 50% of the floorspace of the building, hard and/or soft landscaping works shall be carried out in accordance with a robust hard and soft landscaping scheme which shall have first been submitted to and approved in writing by the

Local Planning Authority. The scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences, other boundary treatments and finished ground levels; details of the hard surface treatment 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. The landscaping works shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority"

**19/01169/CONDIT**

**PERMIT**

**29th July 2019**

Variation of condition 2 (approved plans) on planning permission ref. 18/00277/FUL to allow minor material amendments to the approved scheme

**19/01436/FUL**

**PERMIT**

**23rd September 2019**

Public realm improvements to external areas including new public exhibition facilities, external seating area, replacement planting and hard landscaping works

### 3. POLICIES AND GUIDANCE

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

Section 4 Decision-making

Section 12 Achieving well-designed places

Section 16 Conserving and enhancing the historic environment

#### **Saved Local Plan (LP) Policies**

GE1 Public Green Space

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

D1 Design

SL1 Safe and Sustainable Living

GI2 Protection and replacement of trees

GI3 Trees and Development

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

SD4 Design Requirements

SD8 Historic Environment

SD14 Health and Environmental Quality

#### **Supplementary Planning Guidance/Documents**

Montpellier Character Area Appraisal and Management Plan (2007)

### 4. CONSULTATION RESPONSES

**Tree Officer**

*21st August 2020*

The CBC Tree Section endorses Landscape Planting Plan 11259\_TG\_POS Rev C provided there are minor modifications:

- 1) The soil to be used within the tree pits is to be 'site won' soil which has been assessed as being suitably fertile and in accordance with BS 3882 (2015) (specification for Top Soil). However Trees Officers have concerns that the soil around where previous trees existed supporting large conifers will be insufficiently fertile to encourage tree establishment and growth. It is strongly recommended that fresh top soil (to the BS Standard is incorporated into the tree pits.

- 2) It is noted that a 1000mm root deflector is incorporated into the tree pit so as to encourage downward root growth and avoid adjacent hard surface damage as a result of potential shallow roots. It is considered that such a deflector is too large and roots will not grow deeper than the required 1000 depth (and then a further 20mm through the proposed washed gravel) so as to be able to grow outside the tree pit. If a 1000mm deflector is incorporated into the planting pit, there is a significant risk that tree root growth will not be able to grow outside the tree pits and will become moribund, not grow or thrive. Please could the root deflector size be reduced from 1000mm to 600mm.
- 3) It is noted that planting and maintenance of the trees is for 12 months only. This is insufficient and such large semi mature trees will take longer than 12 months to establish and mature. It was requested that a minimum of 3 years aftercare, watering and maintenance guarantee is necessary to ensure the trees thrive in this location. Due to budgetary constraints, the rooting area (silva growth cells) originally planned for this site have been removed helping to reduce costs considerably. Whilst this has been accepted, reduced costs should not lead to reduced tree planting success. Such trees are likely to have significant energy reserves so as to be able to survive the first year but may struggle in the following years should there be insufficient watering/mulching/maintenance. It is important that such large trees to be planted in an urban environment are given the best aftercare and maintenance as well as a reassuring guarantee for at least 3 years post planting.

7th September 2020

Following receipt of Drawing no 11259\_TG\_P05 Rev F, from a tree perspective, this is now acceptable in that my previous concerns have been addressed and now:

- 1) New topsoil to the British Standard will be introduced into tree planting pits,
- 2) The size of the root barrier is to be reduced from 1000mm to 600 mm (on three sides),
- 3) Aftercare and guarantees for trees are for 3 years-not 1 year.

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 Letters of notification were sent to the Town Hall, Friends of Imperial Square and Gardens, and Art in the Park. In addition, site notices were posted and an advert published in the Gloucestershire Echo.
- 5.2 In response to the publicity, seven objections have been received; all of which raise concerns relating to the future of the annual Art in the Park (AitP) exhibition. The objections largely relate to the reduction in the number of proposed exhibition stands.

## 6. OFFICER COMMENTS

- 6.1 Guidance set out within planning practice guidance (PPG) acknowledges that *“New issues may arise after planning permission has been granted, which require modification of the approved proposals”* (Paragraph: 001 Reference ID: 17a-001-20140306) and that where less substantial changes are proposed, an application seeking a minor material amendment may be submitted under Section 73 of the Town and Country Planning Act 1990, which allows for conditions imposed on planning permission to be varied or removed.
- 6.2 As such, the only consideration when determining this application is the acceptability of the proposed changes as an amendment to the approved scheme. The principle of

development has been firmly established through the original grant of planning permission which remains extant.

- 6.3 As previously noted, the proposed changes essentially involve the reconfiguring of the proposed hard and soft landscaping, together with associated changes to the extent and positioning of the exhibition stands. The changes are required in order to reduce the costs of the proposals so as to ensure the delivery of the plaza scheme.
- 6.4 The previously approved scheme proposed the wholesale removal of the landscaped border adjacent to the south west elevation of the building but provided for replacement planting to mitigate its loss. However, as originally approved, the agreed location and method of planting of the new trees closest to the building would have required extensive excavations to a depth of 2.5m, and associated piling works. This revised scheme still provides for the planting of 9no. new large, semi mature trees but in smaller tree pits, together with perennial planting, on both on the applicant's land and within the gardens.
- 6.5 Following some minor revisions to the landscaping plan, the revised proposals have been agreed by the Tree Officer and Green Space Manager; all of the recommendations made by the Tree Officer have now been incorporated into the revised landscape planting plan.
- 6.6 Another element of the scheme which has been amended is the wall separating the hard and soft landscaped areas, with a linear wall now proposed in lieu of the 'wavy' wall originally approved. The wall now proposed will be of dry stone construction with a stone coping to match the wall around the nearby Holst statue.
- 6.7 Additionally, the hardsurfacing materials have also been amended with light brown resin bound gravel, to match existing gravel footpaths within the gardens, now proposed.
- 6.8 Finally, as a result of the proposed changes, the number and positioning of the proposed exhibition display stands has been reduced from 23 to 15. It is this reduction in the number of stands that forms the basis of the objection from AitP as they state that 15 stands is insufficient for their future needs; albeit they have also commented on the design of the stands, and their positioning.
- 6.9 In response to the concerns about the positioning of the stands, originally set around the new trees, the applicant has revised the layout to result in a more linear form of exhibition with improved sight lines; however, they are unable to increase the number of stands.
- 6.10 With regard to the design of the exhibition stands, a similar condition to that imposed on the previous decision, requiring the detailed design to be submitted and agreed, is again suggested. An informative is also suggested which encourages the applicant/developer to engage with AitP when finalising the design.

## **7. CONCLUSION AND RECOMMENDATION**

- 7.1 Ultimately, officers are satisfied that the amended scheme, when taken as a whole, is one which is not substantially different from that originally approved; and continues to provide an opportunity to significantly enhance this part of the public realm.
- 7.2 The concerns raised by Art in the Park, and their supporters, have been duly noted and it is acknowledged that they will need to adapt their exhibition to fit in with the revised plaza proposals, for example, by extending the length of the exhibition; however, the planning application must be determined in accordance with the development plan and there is no policy reason to refuse permission. It is important to remember that the wider proposals

will result in significant improvement to the public realm for the benefit of a number of users all year round.

7.3 As such, the recommendation is to grant planning permission for this revised scheme subject to the following conditions which reflect those imposed on the original decision notice.

7.4 The new permission would sit alongside the original permission, which would remain intact and unamended.

### 8. CONDITIONS

1 The planning permission hereby granted shall be begun not later than the expiration of three years from the date of the original decision (19th September 2019) issued under planning permission ref. 19/01436/FUL.

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 Notwithstanding the approved plans, prior to the commencement of development on the public realm works hereby permitted, physical samples of the proposed hard surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. All new hard surfacing areas shall be permeable or drain to a permeable area and shall be carried out in accordance with the approved samples.

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). Approval is required upfront because the hard surfacing is an integral part of the development and its acceptability.

4 Prior to the commencement of development on the public realm works hereby permitted, a management and maintenance plan (MMP) for the hard and soft landscaping, for a minimum period of three years, shall be submitted to and approved in writing by the Local Planning Authority. The MMP shall cover:

- a) weeding;
- b) pruning;
- c) feeding;
- d) replacement of any dead trees or plants;
- e) sweeping; and
- f) repair and maintenance of hard structures.

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). Approval is required upfront because the long term maintenance of the landscaping is integral to the development.

5 Prior to the commencement of development on the public realm works hereby permitted, an Arboricultural Monitoring scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of (i) person(s) to conduct the monitoring; (ii) the methodology and programme for reporting; and (iii) a

timetable for inspections. The works shall not be carried out unless in accordance with the approved details.

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). Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 6 Prior to their installation, the detailed design of the demountable exhibition display stands shall be submitted to and approved in writing by the Local Planning Authority.

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

### **INFORMATIVE**

- 1 The applicant/developer is strongly encouraged to engage with 'Art in the Park' when finalising the design of the proposed demountable exhibition display stands.

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<b>APPLICATION NO:</b> 20/01223/CONDIT	<b>OFFICER:</b> Miss Michelle Payne
<b>DATE REGISTERED:</b> 25th July 2020	<b>DATE OF EXPIRY :</b> 19th September 2020
<b>WARD:</b> Lansdown	<b>PARISH:</b>
<b>APPLICANT:</b>	ABF Pension Trustees LTD
<b>LOCATION:</b>	The Quadrangle Imperial Square Cheltenham
<b>PROPOSAL:</b>	Variation of condition 2 (approved plans) on planning permission ref. 19/01436/FUL to allow for minor material changes to the approved public realm improvements scheme

## REPRESENTATIONS

Number of contributors	<b>7</b>
Number of objections	<b>7</b>
Number of representations	<b>0</b>
Number of supporting	<b>0</b>

20 Grosvenor Road  
 Gloucester  
 GL2 0SA

**Comments:** 3rd August 2020

Comments from Cheltenham Art in the Park (AITP)

### Executive Summary

The proposed variation of condition 2 signals the end of Cheltenham AITP in the Imperial Gardens as the design for art stands is in no way fit for purpose. But Cheltenham AITP recognise the benefits to the landscaping of the gardens and would still support the plaza scheme if option 2 below is supported by the Cheltenham Borough Council.

Cheltenham AITP and its representatives remain open to discussing this matter with all parties.

### Background

The Cheltenham Art in the Park exhibition celebrated its 50th continuous summer exhibition in 2019 and the organising committee would like this showpiece event to continue into the future supporting the vibrant cultural environment of Cheltenham, its residents, visitors and of course its artists.

In 2018 SF Planning Ltd met with AITP a number of times, listening to our concerns with regard to the approved development's impact on the AITP exhibitions.

From the original Design and Access Statement we could see that SF Planning Ltd have listened to our initial views and that their original proposal could allow AITP to continue into the future and remain adjacent to the Imperial Gardens.

SF Planning Ltd had provided a proposal that:

- incorporated the outputs from our initial discussions
- offered us the opportunity to join with them in developing their design which we welcomed and remain committed to do
- that improved the environment and facilities available to the users of the Imperial Gardens

We did have some concerns over the proposal which included:

- how the bespoke exhibition stands are to be erected
- how their provision will be managed
- how space can be provided for stewards and sales
- whether the proposed stands are capable of protecting exhibited paintings from adverse weather
- any costs to AITP that may arise from utilising this space
- when the construction project would be complete and the facilities are to be made available.

Despite these concerns, but based on the provision of 23 exhibition stands in a linear layout as shown in their Design and Access Statement, AITP supported the development.

### The Proposed Variation of Condition 2

On the 23rd July 2020 AITP received correspondence from SF Planning informing us of their proposed changes and they kindly provided an architect's impression of a new layout. This suggested significant changes to the original plan which included:

1. The exhibition stands were no longer in a linear format, but grouped in 3's boxed around 5 trees
2. The number of stands had reduced from 23 to 15.

AITP voiced its initial concerns over these changes to SF Planning and agreed to continue to discuss the design with SF Planning.

On the 28th July SF Planning informed AITP that they were submitting the revised scheme and on the same day AITP received the notification from the Planning Team Cheltenham Borough Council (CBC) indicating the revised scheme had been submitted on the 24th July.

From the evidence of the aforementioned timeline it would appear that the decision to submit the revised scheme with a reduced provision for AITP had been made before any consultation with AITP.

For decades AITP has held an annual open-air art exhibition in the Imperial Gardens on land owned by the CBC and it is this location that would be used by the owners of the Quadrangle building to expand their refurbishment of the building to include the new plaza.

The exhibition which lasts 4 weeks provides screens for over 100 local artists of all standards and experience to display and sell their work. The AITP committee; organises a land use agreement with the CBC, purchases the necessary insurances, sets up stewarding rotas, provides any furniture & fittings and arranges the construction of temporary scaffolding which provides 22 screens with an enclosed stewarding enclosure. Then for the 4-week exhibition the committee members oversee the exhibition and the sales.

The original scheme of 23 stands was based on our desire to maintain the 22 screens we currently provide but also to account for covered space for our daily stewards, so whilst we accept that SF Planning's client would like to reduce the number of stands on cost grounds, the change does mean a 32% reduction in available exhibition space for AITP.

The move from a linear layout to a set of 3 stands boxed around 5 trees also means that stewards cannot view all of the stands and this has significant security issues for AITP and any other exhibition users. A linear arrangement even in a street format (where stands are facing each other), allows stewards or any exhibiting artists to view all screens and prevents the theft of paintings.

If AITP concede the reduction in display stands as a necessary compromise from the original design, then the layout suggested remains an issue. This design is unfit for the purpose of displaying art for AITP and any other artist who may wish to exhibit on more than one cluster of stands.

Problems still exist from the original design that SF Planning assured AITP could be discussed with their architect. Whilst the current Covid 19 situation may have prevented a face to face meeting, no steps have been taken to arrange a virtual meeting between the architect and AITP to discuss the following:

- The screens on the stands need to be deeper to accommodate a sufficient volume of paintings and to provide safe fixing for large works.
- The stands are better located immediately adjacent to each other to offer protection to most of them from adverse weather.
- The roofs on the stand appear to be shallower than those AITP build each year and again this would risk damage by poor weather.

There are perhaps better options for the proposed new layout, one of which would be to locate the stands in space adjacent to the new low brick wall which is provided as the boundary to the main planting.

A single line of stands adjacent to each other, abutting the brick wall starting from the corner with the pavement off the A4015, following the wall to the point where the ramp begins. This could provide approximately 12 stands (24m) and a further 5 or more of the 15 stands in the proposal that face the wall could remain, thereby providing a minimum of 17 stands.

The attached sketch AITP 200801 shows the locations suggested.

### Conclusions and options

1. AITP was made aware of the original Quadrangle project and the submitted plaza scheme by the CBC because this removed the land that we occupy each year for our exhibition, we can therefore conclude that in some part the re-provision of space or even facilities for AITP to continue is a desire of the CBC and this is why we were originally consulted.

Both the CBC and the development project team have voiced support for re-providing an exhibition space for AITP and we are very grateful for that. However, that commitment has not been kept by the development project team and their design has eroded to the point where a viable art exhibition space is no longer achievable. A reduced number of stands designed in isolation by the project team does not signal a co-operative approach or any consideration that AITP has any importance to their scheme or to Cheltenham.

If the CBC decide that this scheme is approved as submitted, then AITP believes this proposal does not meet AITP's needs or those of other artists wanting to exhibit and the AITP committee would like to meet with the CBC to seek alternative locations within the Imperial Gardens for AITP to site its self-built screens and stewarding facilities.

2. AITP is willing to compromise on the number of stands, if a linear design can be provided as suggested above:
  - i. The provision of space for stewards remains an issue and unless something is specified in the design AITP would lose a further stand to this need. Alternatively, AITP could provide a small domestic gazebo that would be erected on a daily basis and removed each evening. Even so, this means that AITP could lose up to 7 screens and will have to reduce the number of artists exhibiting, or extend the exhibition to 5 weeks.

- ii. Unfortunately, we cannot rely on dry weather every day of an open-air art exhibition, so the stand design requires further work and must take account of the fact that they are being used to display art in the open air.
- iii. Despite promises from the project team that AITP would be consulted on the design of the stands, this has not happened to date, so AITP would ask the CBC to ensure that this requirement is entered as a condition of planning consent.
- iv. If the CBC agree that the linear design suggested above should be pursued then this and the minimum requirement to provide at least 17 stands designed with input by AITP should be entered as a condition of planning consent.
- v. How the provision or renting of the stands is to be managed is unknown and AITP should be treated as a favoured customer and guaranteed access to all of the art stands it requires for the same 4+ weeks every year in preference to other potential users.

### Recommendation

Option 2 above is recommended to ensure that the plaza scheme is completed to the benefit of the Imperial Gardens and its users and visitors, which includes Cheltenham AITP.

### **Comments:** 12th August 2020

As you are aware we have submitted the attached comments to the revised design of the Plaza scheme. Here is a version associated with our suggested layout referenced in our submission (available to view in Documents tab). The areas highlighted in yellow suggest where stands could be erected in a line and how some of the stands suggested by SF planning could also be utilised.

### **Comments:** 24th August 2020

Cheltenham Art in the Park Committee comments on revised plans received by the Council c. 17th August 2020.

The Cheltenham Borough Council each year grants Cheltenham AITP the use of land in the Imperial Gardens for 6 weeks; to set up, exhibit and take down our temporary exhibition stands and the Stewards enclosure. Each year AITP builds 22 stands (screens), builds additional stands for displaying its banners and builds a circa 10 feet square waterproof enclosure for two stewards to oversee the exhibition and to manage sales.

We note with interest the new design from SF Planning which incorporates some of our ideas outlined in our submitted objection. Unfortunately, once again this change has not involved direct consultation with Cheltenham AITP and therefore this design still does not enable us to operate our annual open-air exhibition as we have for 50 years.

- The provision of only 15 art stands reduces our exhibition capacity by 32% which limits the number of artists being able to exhibit and the cash flow from screen fees and sales levies that funds the exhibitions.
- There is no provision for a stewarding facility.

The Plaza scheme was originally presented to us as an improvement to the Imperial Gardens whilst providing the facilities for Cheltenham AITP because the land used by AITP each year which has been provided by the Cheltenham Borough Council for the scheme, would no longer be available to AITP.

The initial scheme providing 23 art stands offered something we could have probably developed and worked with, but since then there has been no engagement with AITP in its development or design, and so we get the sense, that having obtained consent, the latest designs are only paying lip service to the original ideal, and there is no real commitment to reprovide a viable facility for Cheltenham AITP.

Unfortunately we feel we must continue to object to this version of the plaza scheme and if the decision is for it to continue without providing fit for purpose facilities, we must seek help from the Cheltenham Borough Council to find an alternative location in the Imperial Gardens where we can continue providing our own temporary exhibition stands.

The Cheltenham Art in the Park committee remain open to discussing with all parties on how our requirements can be met, either with the developer's project team, their architect or the Cheltenham Borough Council planning team.

It is with our sincerest regret that at this point our objection stands.

9 Arthur Bliss Gardens  
Cheltenham  
Gloucestershire  
GL50 2LN

**Comments:** 10th August 2020

I support the improvements to the building and surrounding area contained in the original approved scheme. Previous engagement to maintain a facility for Art in the Park had been very good and the approved scheme allowed this important event to continue. Art in the Park has operated for over 50 years and is a significant attraction bringing people in to the town. I object to the revised scheme as it makes it impossible to continue with Art in the Park in the future and this results in a loss of a significant community facility. The revised scheme fails to provide any justification for the changes and does not represent an improvement on the approved scheme. The only reason for the change is to reduce complexity and cost for the developer. The revision also fails to highlight the loss of amenity created by the changes. As the scheme is inferior the developed should be required to complete the works in line with existing approved scheme.

19 Kimberland Way  
Abbeymead  
Gloucester  
GL4 5TW

**Comments:** 1st September 2020

I am writing to say that the new design from SF planning still only has provision for 15 stands and has no water proof area for a Stewarding Facility. This will mean a big reduction in people being able to Exhibit at this long standing Exhibition which has always been an asset to Cheltenham.

Therefore my objection still stands to this scheme.

**Comments:** 7th August 2020

I am writing to object to this proposal, as a long standing Exhibitor and supporter of Art in the Park, I find the plan not fit for purpose because it reduces the original Art Stands and the layout is not good either. This is such a shame after all the years we have been showing and is a great attraction for visitors to Cheltenham.

Mill Cottage  
Dancing Green  
Ross On Wye  
Herefordshire  
HR9 5TE

**Comments:** 12th August 2020

As a regular exhibitor at Art in the Park Cheltenham I am very disappointed with the new proposal for the exhibiting space for future exhibitions. A reduction in screens will mean a smaller exhibition and I struggle to see how the new proposed layout would work with regards to security and adverse weather conditions.

It would be a great shame to lose the AITP annual exhibition, not just for the artists but also for the local community and visitors to the town. Cheltenham has a great cultural heritage and I feel AITP significantly contributes to this each year.

2C School Road  
Bishops Cleeve  
Cheltenham  
Gloucestershire  
GL52 8BA

**Comments:** 12th August 2020

As a long term supporter of and contributor to Art in the Park, I am very concerned that the proposed variation to the layout and number of exhibition stands will make it very difficult, if not impossible, for Art in the Park and other potential exhibitors to display their work securely and effectively. The three-sided stands which are now suggested may also prove to be a hazard to visitors and pedestrians.

4 Pear Tree Close  
Woodmancote  
Cheltenham  
GL52 9TY

**Comments:** 12th August 2020

Representing Southam Art Group, one of several local art clubs in the Cheltenham area which have been welcomed as participants by Cheltenham AITP in recent years.

The planning permission proposal in its latest incarnation excludes the possibility of any workable exhibition in future. In order for proper stewarding to take place and the security of the artwork to be maintained, stands MUST be sited in a linear manner. I therefore object to the proposal and its clear implication of the ending of a much-loved and enriching annual event in Cheltenham's cultural life.

I find it deeply disturbing that, despite assurances being given that appropriate consultation with AITP would take place, this has signally failed to occur.

**Comments:** 24th August 2020

I write to add further to my previous objection.

Whereas the developer has now tweaked the concept to provide a linear character to the proposed display stands, the number of these is patently inadequate to the needs of the annual exhibition. It appears that AitP is being asked to accept a dramatic cut in its size and a

consequent impoverishment of the "spectacle" provided down to something approaching that of a village fair.

The AitP committee could be forgiven if it were to decide that enough is enough and that commercial interests have won out over the needs of the local community and fifty years of tradition.

Were this to be approved by CBC, it would imply strongly to the casual observer that the Council is very happy to involve itself with events of national and international importance via "festivals" and the like but has scant regard for local artists who may be struggling to make a reputation.

2C School Road  
Bishops Cleeve  
Cheltenham  
GL52 8BA

**Comments:** 26th August 2020

I have looked at the new proposal from the developer and would like to comment further:

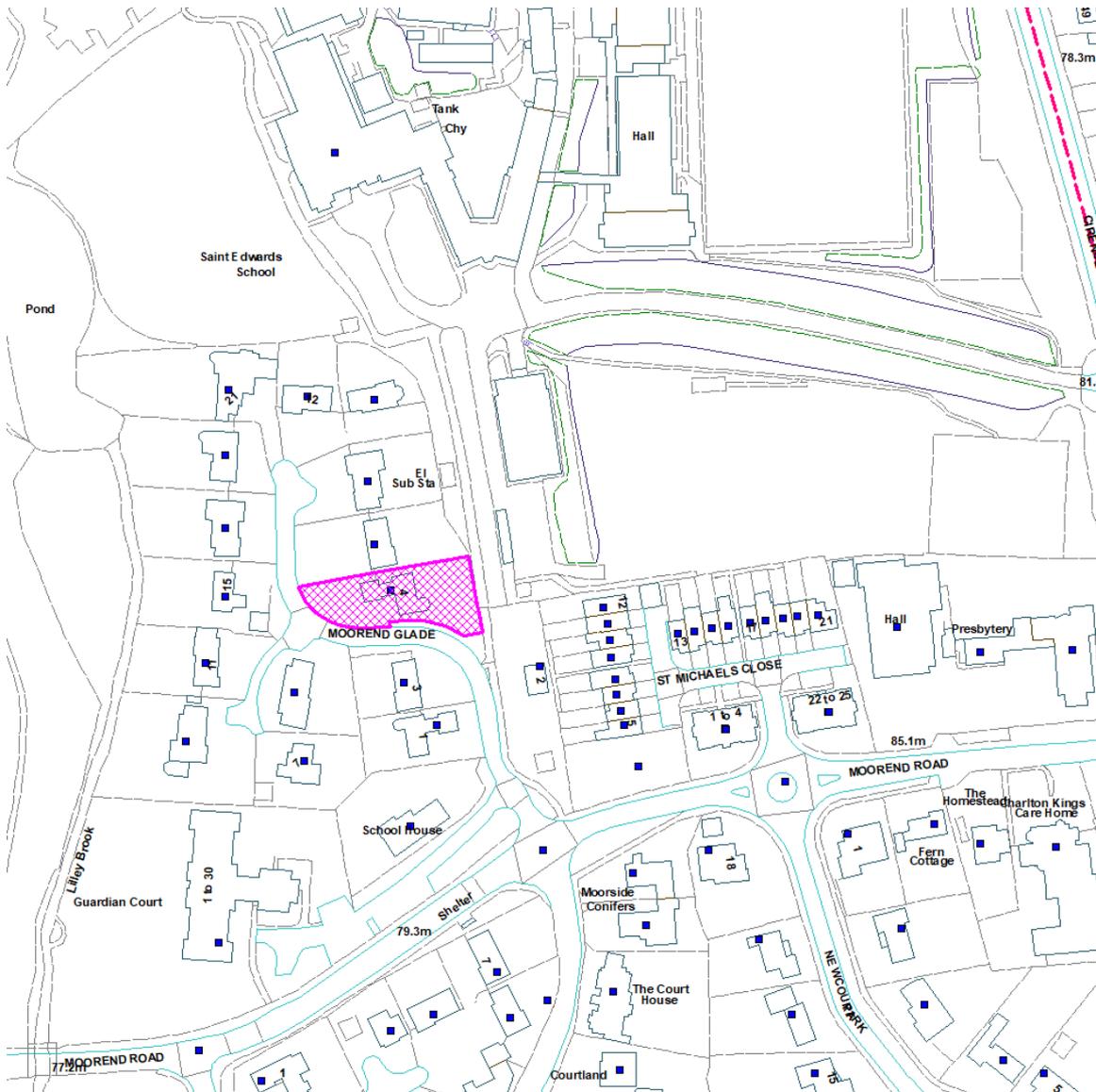
Whilst the suggested change back to a linear position of the run of display boards is an improvement on the initial variation application, the number of units still does not provide AitP with sufficient space for an effective and secure exhibition.

Cheltenham Borough Council should continue to support locally organised events, such as AitP which draws visitors to the town for four weeks annually, and insist that the developer adheres to the original, approved, plans, which gave scope to AitP and to other potential exhibitors.

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<b>APPLICATION NO:</b> 20/01041/FUL	<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 30th June 2020	<b>DATE OF EXPIRY:</b> 25th August 2020
<b>DATE VALIDATED:</b> 30th June 2020	<b>DATE OF SITE VISIT:</b>
<b>WARD:</b> Charlton Park	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	Mr And Mrs D Eade
<b>AGENT:</b>	A Clarke Design Ltd
<b>LOCATION:</b>	4 Moarend Glade, Cheltenham, Gloucestershire
<b>PROPOSAL:</b>	Proposed single storey and two storey rear extension

**RECOMMENDATION:** Permit



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## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 4 Moorend Glade is a detached two storey dwelling house located on a corner plot within a residential cul-de-sac.
- 1.2 The applicant is seeking planning permission for a proposed single storey and two storey rear extensions.
- 1.3 The application has been requested to be determined at planning committee by Cllr Harvey due to the two storey extension's impact from the scale, overbearing and privacy to the neighbouring amenity. The Parish Council has also objected due to the use of render and impact on wider street scene.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Airport Safeguarding over 45m  
Landfill Sites boundary  
Principal Urban Area  
Smoke Control Order

### Relevant Planning History:

#### **01/01541/TPO 13th December 2001 PER**

Various works to trees including: Fell Robinia in rear garden and reduce height of 4 Lime trees (2 in garden of 6 Moorend Glade) to original reduction point

#### **03/00496/CONF 23rd May 2003 CONFIR**

Confirmation of Tree Preservation Order number TPO576: 2 Lime trees situated to the front.

#### **03/00506/REVOKE 28th May 2003 REV**

Revocation of Tree Preservation Order number TPO130.

#### **03/01974/TPO 27th June 2006 PER**

Two lime trees at front of property: 1. reduce height (back to position in 1993). 2. remove vertical growth along lateral branches. 3. prune ends of laterals

#### **85/00639/PO 25th July 1985 PER**

Land Adj. Charlton Park School Moorend Road Cheltenham Gloucestershire - Outline Application For Residential Development (As Amended By Letter Dated 2nd July 1985)

#### **86/00215/PM 20th March 1986 PER**

Land Adj. To Charlton Park School Off Moorend Road Cheltenham Gloucestershire - Erection Of 15 Houses

#### **07/01679/TPO 28th January 2008 PER**

4 x limes at numbers 4 and 6 - re-pollard all round to previous pollard points, using a handsaw

#### **11/00093/TPO 18th February 2011 PER**

2 x Limes (form group with 2 x Limes at 6 Moorend Glade) - reduce height to just below high pollard positions. Reduce all lateral growth similarly all round. Remove all epicormic growth and vertical growths right along the branch scaffold to the ends. Even up any low hanging material and remove any dead material.

**13/02023/TPO 6th January 2014 PER**

2 x Limes (form group with 2 x Limes at 6 Moorend Glade) - reduce height up to 1.5m below old pollard points. Reduce all lateral growth similarly all round. Remove all epicormic growth and vertical growths right along the branch scaffold to the ends. Even up any low hanging material and remove any dead material.

**16/01126/TPO 22nd July 2016 PER**

4 Lime trees (2 at No 4 Moorend Glade and 2 at No 6 Moorend Glade)- Reduce all trees to previous reduction points, remove epicormic growth from base, main stem and scaffold branches. Remove any deadwood

**19/01570/TPO 9th August 2019 PER**

limes - reduce back to previous reduction points, remove epicormic growth, remove deadwood

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

**National Planning Policy Framework**

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 12 Achieving well-designed places

**Adopted Cheltenham Plan Policies**

D1 Design

SL1 Safe and Sustainable Living

**Adopted Joint Core Strategy Policies**

SD4 Design Requirements

SD14 Health and Environmental Quality

**Supplementary Planning Guidance/Documents**

Residential Alterations and Extensions (2008)

### **4. CONSULTATIONS**

**Contaminated Land Officer**

*22nd July 2020*

In relation to application 20/01041/FUL, 4 Moorend Glade, the site is in the 50m buffer zone of a former landfill which is not seen as presenting a significant risk of ground gas migration, however, you may wish to consider the installation of landfill gas protective membranes to mitigate against any potential impact from migration of landfill gas.

**Ward Councillors**

*21st July 2020*

Could this be decided by Full Planning Committee, reason scale, overlooking/dwarfing #6 great loss of Amenity to elderly neighbour. Request to speak at Cttee if this gets that far

**Building Control**

*2nd July 2020* - The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

**Parish Council**  
27th July 2020

Objection:

The Committee objects to the use of render for this proposed extension, it being too stark in contrast to the existing construction and so detrimental to the street scene from Moorend Road.

This Objection would be satisfied if brickwork in keeping with the original construction was specified.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	7
Total comments received	2
Number of objections	1
Number of supporting	0
General comment	1

5.1 Letters of notification were sent to 7 neighbouring properties. One letter of objection has been received and has been summarised but not limited to the following points:

- Loss of light and overshadowing
- Overbearing
- Out of Character

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.2 The main considerations when determining this application are design, impact on the amenity of neighbouring properties and impact on the wider locality.

### 6.3 Design and layout

6.4 The application proposes a two storey extension projecting 3m from the original rear elevation and a single storey rear extension projecting 3m. At single storey the extension will incorporate a flat roof while the two storey element will incorporate a gable pitch roof.

6.5 Materials proposed will include a white render finish for the exterior elevations, dark grey aluminium glazing for the fenestration arrangement and concrete tiles for the gable pitched roof. The use of render and aluminium differs to the existing orange brick and brown uPVC windows.

6.6 It is acknowledged that proposed two storey extension's overall height, scale, footprint and distance to boundaries could be achieved under permitted development. For a two storey extension to be classed as permitted development it must not extend more than 3m from the rear wall of the original dwelling, it must be 7m or more from any boundary opposite the rear wall of dwelling house and have a maximum eaves and ridge height of extension no higher than existing house. In addition, if the extension is within 2m of the boundary than the maximum eaves height should be no higher than 3m to be permitted development.

- 6.7** The overall height of the proposed two storey rear extension is below the existing ridge height of the original dwelling and the height of the eaves is level with the existing eaves height. The projection of the extension is 3m, while the distance to the boundary opposite the rear wall is in excess of 14m and the extension is 2m from the side boundary. As such, the overall height, footprint and size comply with permitted development.
- 6.8** The application requires the benefit of planning permission because the materials used in the exterior work are not of similar appearance to those used within the original dwelling. As a result, the only aspect of the proposed two storey extension that can form part of officer's consideration is the use of render to the exterior elevations.
- 6.9** Consideration has been given to the impact of the proposed render finish on the appearance of the existing dwelling and wider street scene. Officers consider that the use of render represents a high standard of innovative design and appropriate level of modernisation as indicated under Section 12 of the NPPF. Furthermore, other properties along Moorend Glade have been finished with part rendered and facing brick exterior finish. As such, it is considered that the use of render at 4 Moorend Glade would not look out-of-character or alien within the appearance of the wider street scene.
- 6.10** Officers also acknowledged that the single storey rear extension element of the scheme can also be built under permitted development if the materials used were similar to the original dwelling. This aspect of the scheme will be partially obscured when viewed from the street scene as a result of the high boundary treatment.
- 6.11 Impact on neighbouring property**
- 6.12** With regard to the impact on neighbouring amenity, officers have taken into account the fact that the height, footprint and size of both extensions can be achieved under permitted development. Consideration has been given to how this indicates that the two storey element is sufficient as to not cause harm to the amenity of the surrounding neighbours in respect to privacy, light and outlook.
- 6.13** Nevertheless, officers have undertaken the 45 degree light test as to indicate whether there would be an unacceptable loss of light to the most affected neighbour no. 6 Moorend Glade. The light test has passed on elevation indicating that no unacceptable loss of light to the neighbouring windows and rear garden will be caused by the proposed development.
- 6.14** No windows are proposed to the side elevation of the proposed two storey rear extension causing the additional harm of overlooking to the surrounding neighbours. The proposed Juliet Balcony doors can be achieved under permitted development and additionally any views to the neighbouring garden land will be at an oblique angle. As such, it is considered that no unacceptable harm to the privacy of the surrounding neighbours will be caused.
- 6.15** For the reasons set out above, the proposed extensions are considered to be acceptable and comply with the relevant policies in terms of protecting the existing amenity of adjoining land users.
- 6.16 Public Sector Equalities Duty**
- 6.17** As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to this duty. There are 3 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
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties this proposal complies with the 3 main aims set out.

### **7. CONCLUSION AND RECOMMENDATION**

- 7.1** In light of the above, the proposed two storey and single storey rear extensions comply with the relevant Cheltenham Plan policies, JCS policies, NPPF and supplementary guidance.
- 7.2** Officer recommendation would therefore be to permit this application subject to the conditions set out below;

### **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.

### **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.

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<b>APPLICATION NO:</b> 20/01041/FUL		<b>OFFICER:</b> Mr Daniel O Neill
<b>DATE REGISTERED:</b> 30th June 2020		<b>DATE OF EXPIRY :</b> 25th August 2020
<b>WARD:</b> Charlton Park		<b>PARISH:</b> CHARLK
<b>APPLICANT:</b>	Mr And Mrs D Eade	
<b>LOCATION:</b>	4 Moorend Glade, Cheltenham, Gloucestershire	
<b>PROPOSAL:</b>	Proposed single storey and two storey rear extension	

**REPRESENTATIONS**

Number of contributors	<b>2</b>
Number of objections	<b>1</b>
Number of representations	<b>1</b>
Number of supporting	<b>0</b>

17 Moorend Glade  
 Cheltenham  
 Gloucestershire  
 GL53 9AT

**Comments:** 10th July 2020

Thank you for alerting me to this planning proposal and inviting me to comment. I write as a nearby resident on the same small estate. The proposed additions will be completely invisible from our property. However the stark white two story extension will be very visible to everybody entering Moorend Glade from Moorend Road, whether on foot, on a bike or in a car. I suggest that the visual impact of the proposed extension would be much improved if the external details and finishes were more in harmony with the surrounding estate.

6 Moorend Glade  
 Cheltenham  
 Gloucestershire  
 GL53 9AT

**Comments:** 21st July 2020

Letter attached.





7 Greatfield Drive  
Charlton Kings  
Cheltenham GL53 9BT

David Oakhill – head of planning  
Cheltenham Borough Council

*By hand.*

21 July 2020

Dear Sir

**Proposed single storey and two storey rear extension at 4 Moorend Glade, Cheltenham:  
Your reference: 20/01041/FUL**

I write with reference to your letter of 1<sup>st</sup> July.

I am the son of the owner and occupier of 6 Moorend Glade ("MG"). [REDACTED] I hold power of attorney for him. I have discussed the content of this letter with him and he has agreed that I should make these submissions on his behalf.

**The Application**

Before I deal with my father's objection may I point out that there is a fundamental inaccuracy in the application. Question 9 asks whether the site is visible from a public road. The answer provided is "no". This is inaccurate. The proposed development will be visible from both Moorend Glade and Moorend Road. 4 MG is possibly the most prominent site in the whole development. All residents bar those whose properties are closer to Moorend Road drive past it in order to obtain access. MG is an adopted highway.

**Lack of Amenity**

My father's property lies to the left of 4 MG when viewed from the lower part of MG and is directly and adversely affected by the proposed development. My observations are as follows:

1. In my view the proposed two storey rear extension will adversely impact light, air and amenity to my father's property. I specifically refer to Planning Policy CP4 and the accompanying explanatory notes which only permit development which would not ".....cause unacceptable harm to the amenity of adjoining land users.....";
2. When viewed from the road it is very clear that 4 MG is set slightly higher and further back than 6 MG (see figs 1, 2 and 3 in the accompanying set of photographs and the explanatory notes which I have added for commentary). This has the effect of making the bottom right hand corner of my father's garden (when viewed from the house) slightly darker and damper than the remainder of the garden. Roughly half of the main body of 4 MG already extends beyond the building line of the back wall of 6 MG;
3. The position is further exacerbated by the fact that the rear gardens of both properties rise by some 2-3 feet over a relatively short distance. The rise is demonstrated by the slope in the road to the frontage of 4 MG. In addition my father's rear patio (see fig 4{ }) is set significantly below the level of the lawns of both properties. He is able to sit out

there on sunny days throughout the year when the temperature permits. The kitchen is dark when there is no sun and this proposed extension will only make it more so;

4. Fig 5 demonstrates the point at which the sun rises during summer. It was taken at about 8.30 on the morning of 17<sup>th</sup> July. The sun moves from the position shown to the right during the course of the morning. The creation of a substantial two storey extension on such a prominent property is likely to deprive my father of both light and amenity during each day and in particular will make the garden and kitchen substantially darker than they already are;
5. I have noticed from the plans that the intended new blank wall of the extension is simply a blank. My father has no wish to be overlooked (as he will be from the "Juliette" balcony) although it is conceded that the existing bedroom windows do overlook 6MG. The creation of such a large area of brickwork adjacent to 6MG is not a feature that either he or I find attractive. The plans that I have seen suggest that it may be painted white or some similar colour. In my view that will only make the extension even more obvious;
6. Both 4 and 6 MG back on to St Edwards School. Whilst my father enjoys the sound of the children on most occasions the existence of this new extension may reflect sound back into his garden whilst shielding 4 MG from that particular source of noise. Again I refer to Policy CP4 and the accompanying notes which suggests that this form of potential adverse impact arising from noise should be considered.

In short both my father and I find the proposal one which has been tabled purely for the benefit of the new owners of number 4 and one which takes no account of the harmonious and thoughtful way in which Bovis designed the development in the mid 1980s. In particular there will be a significant loss of amenity which my father has enjoyed since he moved there in 1985 with my late mother.

In all the circumstances I would request the officers / planning committee to reject the application in so far as it provides for a two storey rear extension. My father and I would very happily discuss the creation of a single storey rear extension because that would not create a loss of amenity if handled in a sensitive way.

[REDACTED] - attorney for [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

PS. I submitted this by email to the built environment email address on the weekend. I now deliver it by hand in order to ensure that the objection is fully lodged & noted.

**Explanatory notes to accompany objection letter and photographs re proposed two storey development at 4 Moorend Glade Reference: 20/01041/FUL**

Fig 1: This shows the right hand side of my father's property and the left hand side of 4 MG. I have measured roughly the difference between the first course of brickwork at the two properties. 4MG is approximately 2 feet higher at this point. I have not been able to compare heights at other points but I would expect it to be the same or greater. It makes 4MG an imposing property even now.

Fig 2: This looks from half way up my father's garden towards 4 MG and shows the significant amount by which 4MG extends beyond the back wall of 6 MG.

Fig 3: This looks backwards down my father's garden from a point close to the top. It again demonstrates the way in which 4MG towers above my father's property and gives some ideal of the fall between the top of both gardens and the bottom;

Fig 4: This shows the flank wall of 4MG and the way in which the developer was forced by the plot characteristics to produce a patio with a brick surround with garden about 1-2 feet above. Just behind the point at which this photo was taken there is a sitting area where my father likes to enjoy the morning sunshine. The proposed extension will take away a considerable amount of amenity in terms of light and air.

Fig 5: This is taken from just outside the double doors at the end of my father's kitchen. He sits outside these doors when the weather permits. It shows the sun in the position where it would be at about 8.30 on a July morning. Earlier in the year it would rise slightly to the left and later in the year the point at which it rises would be slightly to the right.

Fig 6: This is taken from the left hand edge of my father's patio and demonstrates the extent to which 4MG currently impinges upon 6MG. The two storey extension would probably take away a further considerable amount of the light and air up to the point at which the vegetation starts to rise towards the back of the garden.

Fig 1

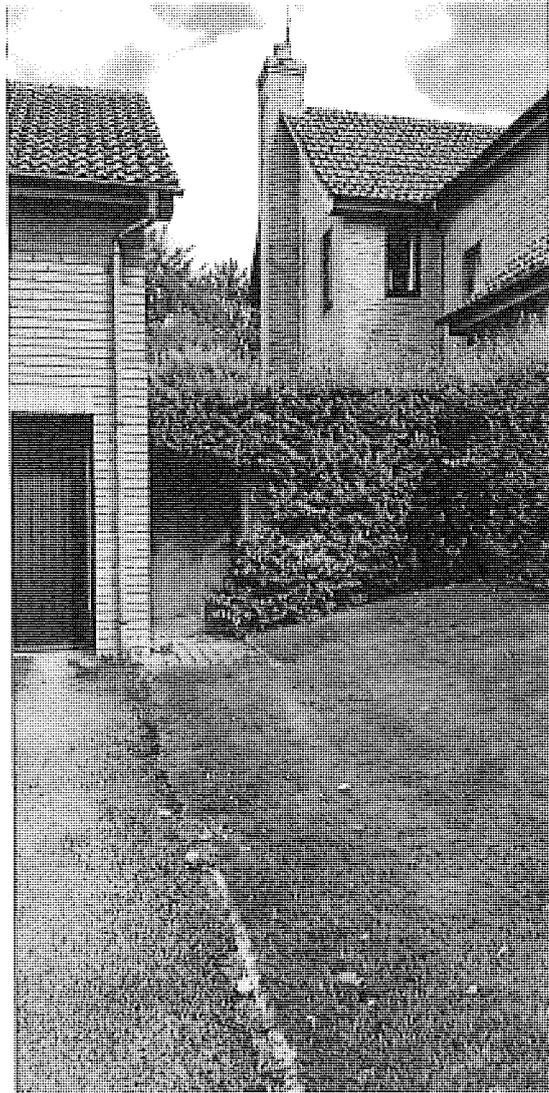


Fig 2

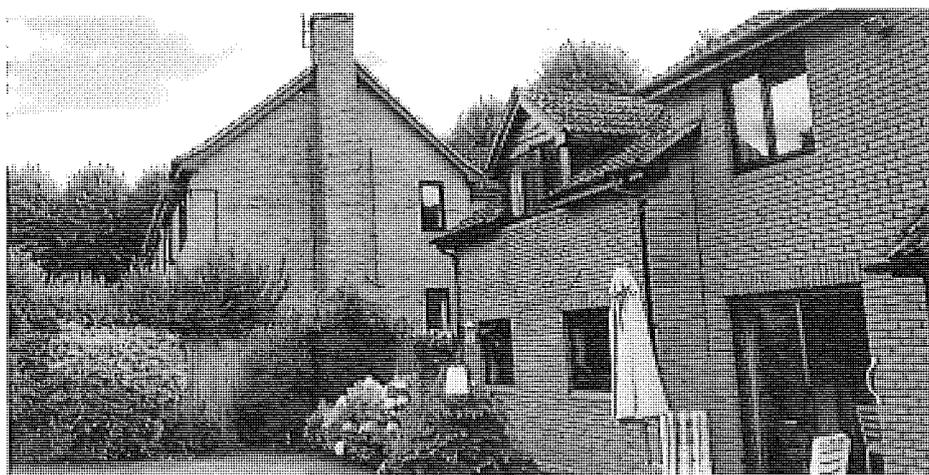


Fig 3



Fig 4

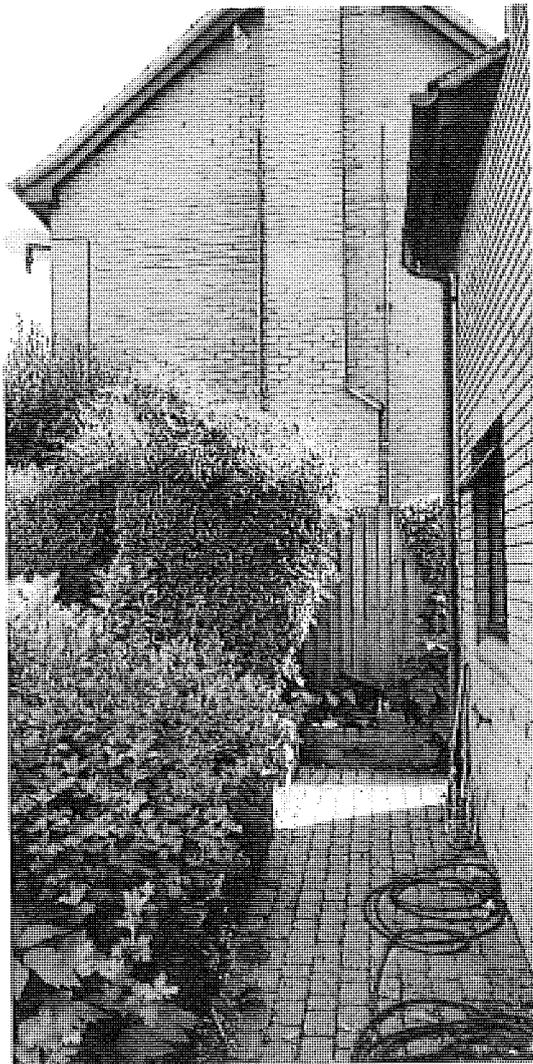


Fig 5



Fig 6



## Appeals Lodged Aug/Sept 2020

'Nothing to report'

## Appeals Determined

Address	Proposal	Delegated/Committee Decision	Appeal Type	Outcome	Reference
42B Suffolk Road	Installation of first floor window without restrictions (retrospective)	Delegated	Written	Allowed	Planning Ref: 19/01746/FUL Appeal Ref: 20/00003/PP3
9 Montpellier Parade	Erection of detached dwelling following demolition of an existing garage building	Delegated	Written	Dismissed	Planning ref: 19/01630/FUL Appeal Ref: 20/00011/PP1
Sandhurst Road	Installation of an automatic barrier at the Ryeworth Road entrance to Sandhurst Road for which the barrier is to be set back 12 metres from the highway, resurfacing of unmade parts of the road, and painting of double yellow lines.	Delegated	Written	Dismissed	Planning ref: 19/01962/FUL Appeal ref: 20/00005/PP1

Authorised By: David Oakhill 07.09.20



**Relates to Part 5 Question 24d**

APPLICATION NO: 20/00683/OUT	OFFICER: Mrs Emma Pickernell
DATE REGISTERED: 29th April 2020	DATE OF EXPIRY: 29th July 2020
WARD: Battledown	PARISH: Charlton Kings
APPLICANT:	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust
AGENT:	Mr Peter Frampton
LOCATION:	Land Adjacent To Oakhurst Rise, Cheltenham
PROPOSAL:	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration

## Update to Officer Report

### 1. OFFICER COMMENTS

#### 1.1 Introduction

- 1.1.1 The purpose of this update is to provide members with correspondence which has been received since the report was written which includes:
- 1.1.2 (a) Document from the Applicant's Ecologist (Aspect) including a Framework Management Plan and a response to this from Gloucestershire Wildlife Trust  
 (b) Response from Aspect to an objection received from a neighbour to the site  
 (c) Letter from Ecologist acting for Charlton Kings Friends (Bioscan)  
 (d) Letter from Arboricultural Consultant acting for Charlton Kings Friends (Barton Hyett)  
 (e) Response from County Ecologist to Bioscan letter (marked up copy)  
 (f) Letter and infographic sent to members by applicant  
 (g) Letter on behalf of CK Friends sent to members  
 (h) Email to Cllr Atherstone from Applicant  
 (i) Response to Barton Hyett's letter from the CBC Tree Officer.  
 (j) Response to Barton Hyett's letter from Applicants Arboricultural consultant (FLAC)  
 (k) several representations

#### 1.2 Ecology

- 1.2.1 Further to the recent designation of the site as a Local Wildlife Site (LWS) the applicant's ecologist has prepared a Framework Management Plan. This suggests an outline for a fuller plan (required by condition) which will include measures to ensure the retained grassland is restored and improved. Gloucestershire Wildlife Trust has confirmed that the prescriptions within this document should result in securing and enhancing the biodiversity interest of the retained areas of the Local Wildlife Site.
- 1.2.2 Further correspondence from Aspect confirms that it will be possible to retain the existing pond on site. An additional condition in this respect is proposed so that details of this can be agreed.

- 1.2.3 The letter submitted on behalf of Bioscan makes reference to the Defra biodiversity metric, as discussed in paras 6.5.26 – 6.5.30 of the Officer report. The County Ecologist has provided a commentary to this letter which highlights issues in using the metric and reiterates that the metric is not the finished product and is not a replacement for a proper assessment by qualified ecologists. He repeats his view that the scheme will result in no net loss of biodiversity.
- 1.2.4 The letter also makes reference to the recent designation of the site as a Local (Key) Wildlife Site (LWS). This makes reference to the recording and recognition of grassland species in relation to the designation, however GWT designated the LWS on the grounds of 'Value for Learning'. It was not stated that it qualifies on the ecological value of the grassland alone.
- 1.2.5 The conclusions of the Ecology section of the Officer report are unchanged. The County Ecologist will attend the Planning Committee meeting.

### **1.3 Trees**

- 1.3.1 A report has been submitted on behalf of CK Friends in relation to the trees on site. A response has been provided from CBC Tree Officer. It is not considered that there is anything within these comments which would lead to a differing conclusion than already stated within the Officer report.
- 1.3.2 The Tree Officer will attend the Planning Committee meeting.

### **1.4 Conditions**

- 1.4.1 The list of recommended conditions has been amended as follows:
- Condition 20 – amended to include arboricultural considerations in the management plan and make reference to the Outline Arboricultural Management Plan. The time frame in criterion (e) changed to 10 years. A new criterion (j) added to include measures for the management of retained trees.
- Condition 23 – amended to change the period for replacement of trees to 10 years
- Condition 25 – amended to change the period for replacement of trees to 10 years
- Condition 34 – New condition requiring the pond to be retained, in accordance with a scheme to be submitted.

## **2. CONCLUSION AND RECOMMENDATION**

- 2.1 Subject to the changes to conditions outlined above the conclusion and recommendation is unchanged from the Officer Report. For completeness a full updated list of conditions is provided below.

**3. CONDITIONS**

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application(s) for approval of the reserved matters (appearance and landscaping) must be made not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The outline 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.

- 4 The application for approval of landscaping as a reserved matter shall include full details of the surface water drainage proposals; and the information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

1.
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and
  - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be implemented strictly in accordance with approved details, prior to the commencement of any building works above ground level.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, and to minimise the risk of pollution for the lifetime of the development, in accordance with adopted policy INF2 of the Joint Core Strategy (2017). The detailed surface water drainage proposals are required at reserved matters stage as they form an inherent part of the landscaping proposals.

- 5 No works shall commence on site on the development hereby permitted until details of highway improvements consisting of the installation of a connecting section of footway (2m wide) with tactile dropped crossing point between Beaufort Road and Ewens Road (north side), extension to the footway (2m wide) and dropped kerb tactile crossing point across Charlton Court Road, and a bus shelter to serve Bus Stop ID: glodtwmt located on Beaufort Road have been submitted to and approved in writing by the Local

Planning Authority and no occupation/opening to the public shall occur until the approved works have been completed and are open to the public.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 6 Prior to commencement of the development hereby permitted details of a construction management plan or construction method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:
- i. 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);
  - ii. Routes for construction traffic;
  - iii. Any temporary access to the site;
  - iv. Locations for loading/unloading and storage of plant, waste and construction materials;
  - v. Method of preventing mud and dust being carried onto the highway;
  - vi. Arrangements for turning vehicles;
  - vii. Arrangements to receive abnormal loads or unusually large vehicles; and
  - viii. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

Reason: To minimise disruption on the public highway and adjacent land users and to accommodate the efficient delivery of goods and supplies during the course of the construction works in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework. Approval is required upfront because without proper mitigation the construction works could have an unacceptable highway impact.

- 7 No development shall commence until a detailed Site Waste Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall identify the main waste materials expected to be generated by the development during the construction phase and set out measures for dealing with such materials so as to minimise overall waste and to maximise re-use, recycling and recovery in line with the waste hierarchy. The detailed Site Waste Management Plan must include: -

- i. Information on the type and amount of waste likely to be generated prior to and during the construction phase;
- ii. Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
- iii. Details of the measures for ensuring the delivery of waste minimisation during the construction phase.

The Site Waste Management Plan shall be fully implemented as approved unless the local planning authority gives prior written permission for any variation.

Reason: To ensure the effective implementation of waste minimisation in accordance with Gloucestershire Waste Core Strategy: Core Policy WCS2 - Waste Reduction.

- 8 No building or use hereby permitted shall be occupied or use commenced until the means of access for vehicles, pedestrians and/or cyclists have been constructed and completed in accordance with the approved plans.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and pedestrians, and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108, 110 and 127 of the National Planning Policy Framework.

- 9 No building or use hereby permitted shall be occupied or use commenced until the car/vehicle parking area and turning space associated with each building within the development (including garages and car ports where proposed) shown on the approved plans PL005 Rev B and SK25 Revision: F has been completed and thereafter the area shall be kept free of obstruction and available for the parking of vehicles associated with the development.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 10 The development hereby permitted shall not be occupied until cycle storage facilities for a minimum of 2 no. bicycles per dwelling have been made available for use and those facilities shall be maintained for the duration of the development.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 11 Prior to occupation or use commenced, evidence that the pre-occupation elements of the approved Travel Plan have been put in place shall be prepared, submitted to and approved in writing by the Local Planning Authority.

The approved Travel Plan shall then be implemented, monitored and reviewed in accordance with the agreed Travel Plan to the satisfaction of Local Planning Authority unless agreed in writing by the Local Planning Authority.

Reason: The development will generate a significant amount of movement; and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 111 of the National Planning Policy Framework.

- 12 The individual vehicular accesses hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2 metres back along each edge of the access, measured from the carriageway edge, extending at an angle of 45 degrees to the footway, and the area between those splays and the footway shall be reduced in level and thereafter maintained so as to provide clear visibility at a height of 600mm above the adjacent footway level and shall be maintained as such for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles is provided

in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 13 The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the same specification or a higher specification in terms of charging performance.

Reason: To ensure that the development incorporates facilities for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

- 14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property and ancillary domestic storage without the grant of further specific planning permission from the Local Planning Authority.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 15 Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details. Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:

#### Ecology:

- (i) Outline Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated April 2020.
- (ii) Other Mitigation Measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM3 (update Preliminary [tree] Roost Assessment), MM4 (Bat Survey and Soft-felling of Trees), MM5 (Re-installation of any affected Retained Bat Boxes), MM7 (Wild Mammal Construction Safeguards), MM8 (Habitat Manipulation/Destructive Search for Reptiles & Amphibians) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated April 2020.
- (iii) Adherence to the Tree Protection Plan incorporating arboricultural methods (iv) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) and other responsible persons plus lines of communication

#### Other Items:

- (iv) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- (v) Arrangements for liaison with the Council's Pollution Control Team.
- (vi) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.

- (vii) Procedures for emergency deviation of the agreed working hours.
- (viii) Waste and material storage.
- (ix) Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- (x) Measures for controlling the use of site lighting whether required for safe working or for security purposes.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

- 16 Notwithstanding previously submitted details, prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage shall be implemented in accordance with the approved details prior to first occupation of the development

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 in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 17 Prior to the commencement of development, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated April 2020, and shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 18 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted

to and approved in writing by the Local Planning Authority. 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 saved policies SL1 and D1 of the Cheltenham Plan (2020) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 19 Prior to the commencement of development, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GI2 and GI3 of the Cheltenham Plan (2020), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 20 Prior to the commencement of the development a Landscape, Arboricultural and Ecological Management Scheme based on the Landscape Strategy drawing 19216.101 revision D dated 14-04-20, Proposed New Tree Planting Management Plan - Head of Terms, Outline Arboricultural Management Plan (included on Tree Protection Plan Dwg no. 38-1036.03-E) and the Ecological Appraisal dated April 2020 (Ecological Enhancements EE1 to EE8 inclusive) shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for educational but not public access;
- (e) A work and maintenance schedule for 10 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures;
- (g) Organisation or personnel responsible for implementation of the scheme;
- (h) Issue of a homeowner's information pack on local recreational opportunities and the sensitivity of the Cotswolds Beechwoods SAC.
- (i) Measures to achieve the retention and enhancement of the Ladies Bedstraw population within the site.
- (j) Measures for the management of existing trees retained pursuant to Condition 25.

The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with JCS policies SD6 and SD9, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.

- 21 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 22 Notwithstanding the submitted details, prior to the commencement of any building works above ground level, details of a scheme for the provision and future maintenance of multi-functional green infrastructure to include areas of informal play shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development.

Reason: To ensure that the development makes a positive contribution towards green infrastructure and provides opportunities for play and recreation in accordance with adopted policies INF3 and INF6 of the Joint Core Strategy (2017) and paragraphs 69 and 109 of the National Planning Policy Framework.

- 23 Notwithstanding previously submitted details, prior to the commencement of any building works above ground level, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number and location of all new trees and hedges to be planted; their species, size, spacing/density of hedges, root types, tree pit details (including details of introduced soil amelioration plans); and protection from deer and other predators as well as protection for the street trees from vehicles etc. The scheme shall also include: a. a short, medium and long term management for all trees to be planted; b. details of the restoration and remedial surgery to parts of the existing hedge to be retained; c. details of the proposed pond to the south of the site; and d. wild flower strips in the public open spaces. All hard landscaping works shall be carried out in accordance with the approved details prior to first occupation of the development unless otherwise agreed in writing by the Local Planning Authority. All soft landscaping shall be carried out in the first planting and seeding season following completion of the development or first occupation of the development (whichever is sooner). Any trees which within a period of 10 years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size or species unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with saved policies D1, GI2 and GI3 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.

- 24 All works including paths, parking areas and other forms of hard landscaping that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig method as per the submitted drawings. Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 25 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 10 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework.

- 26 The development shall be implemented in accordance with the Tree Protection Plan drawing 38-1036.03-A dated 17.04.20 which incorporates arboricultural methods and supervision details. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.

Reason: To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Policies GI2 and GI3 of the Cheltenham Plan (2020), ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175.

- 27 No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 28 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:

Monday to Friday - 8am to 6pm  
Saturday - 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays. Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy SL1 of the Cheltenham Plan (2020) and adopted policy SD14 of the Joint Core Strategy (2017).

- 29 No external facing or roofing materials shall be applied unless in accordance with: a) a detailed written specification of the materials; and b) physical samples of the materials. The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020),

adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 30 No boundary treatments, including boundary walls, fences or other means of enclosure shall be constructed unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy D1 of the Cheltenham Plan (2020), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 31 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:

- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB and recreation 'offer' <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision') and Policy BG1 of the Cheltenham Plan 2020.

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

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017), policy BG1 of the Cheltenham Plan 2020 and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 32 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained for that purpose.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 33 Prior to first occupation of the development, leaf guards for the guttering and down pipes of the dwellings shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, and shall be maintained as such thereafter.

Reason: To reduce levels of tree-related inconvenience experienced by residents during the occupancy of the development.

- 34 The existing pond to the north of the site, indicated on Aspect ecology drawing 5487/ECO3, shall be retained in accordance with details which shall have been submitted to the Local Planning Authority prior to the first occupation of the site.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

## 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 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:

- i. Drafting the Agreement
- ii. A Monitoring Fee
- iii. Approving the highway details
- iv. 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.

- 3 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:

- i. Drafting the Agreement
- ii. Set up costs
- iii. Approving the highway details
- iv. 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.

- 4 The development hereby approved and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact the Highway Authorities Network Management Team at [Network&TrafficManagement@gloucestershire.gov.uk](mailto:Network&TrafficManagement@gloucestershire.gov.uk) before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.
- 5 The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury borough council on 01242 264321 for further information.



# Framework Management Plan

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Project: Oakhurst Rise, Cheltenham

## Technical Briefing Note TN12: Framework Management Plan for Restoration of Retained Grassland and Associated Habitats

Date: 07 September 2020

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### 1. Introduction and Background

- 1.1 Aspect Ecology is advising the applicant on ecological matters relating to the site at Land Adjacent to Oakhurst Rise, Cheltenham. The site is proposed for residential development and associated landscape enhancements (planning application ref: 20/00683/OUT). The site is subject to a recent LWS designation.
- 1.2 Under the proposals, which are to develop only part of the site, an opportunity is available to restore the retained area of existing grassland shown edged red on the accompanying plan to herb rich meadowland. The details of how this is to be carried out will be secured by way of a planning condition, to require the drafting and implementation of a Grassland Management Plan (or similar description). This will be attached to a grant of planning permission requiring the submission of the Management Plan for the approval of the LPA. The submission of the Management Plan pursuant to a planning condition will become available for public consultation. The Management Plan will also secure the management of the other associated habitats within the site.
- 1.3 The purpose of this note is to set out a framework for the Management Plan.

### 2. Structure for Management Plan

- 2.1. The management plan will be structured using a similar series of headings to the following:
  - 1) Introduction
  - 2) History to the site
  - 3) Existing ecological baseline
    - a. Botanical survey data
    - b. Faunal survey data
    - c. Fungi, lower plants and other groups
  - 4) Management overview
    - a. Aims and objectives
    - b. Areas covered by the management plan
    - c. Site tenure
    - d. Responsibility
    - e. Management structure
    - f. Ecological constraints

- 5) Soil testing
- 6) Meadow Restoration prescriptions (capital works)
- 7) Pond creation (capital works)
- 8) Ongoing conservation management of meadow
- 9) Ongoing conservation management of other habitats
  - a. Pond
  - b. Trees
  - c. Hedgerows and scrub
  - d. Refugia and hibernacula
- 10) Conservation management prescriptions for faunal species groups
  - a. Bats
  - b. Badgers
  - c. Reptiles
  - d. Amphibians
  - e. Birds
  - f. Invertebrates
- 11) Control of invasive species and weeds
- 12) Management to prevent public access (land edged red)
- 13) Funding arrangements

### 3. Considerations for inclusion in grassland restoration prescriptions

- 3.1. Soil testing will be undertaken to assess existing nutrient levels within the soil and levels of compaction. Assessment of phosphorous levels is particularly important for grassland restoration. This will inform future restoration management actions.
- 3.2. At the present time, a rank closed grassland sward dominates the meadow. In order to open the root mat, a close grassland cut will be undertaken followed by light to moderate scarification through harrowing to break up the thatch and root mat. It may be necessary to harrow a number of times.
- 3.3. Timings of grass cuts will consider the life cycles of resident invertebrate species (e.g. timing of caterpillar food plants). Of particular relevance, is the spring abundance of Pignut *Conopodium majus* at the site which acts as the food plant for Chimney Sweeper Moth *Odezia atrata*. Other species should also be considered such as Five-spot Burnet Moth *Zygaena trifolii* the foodplant for which is Bird's-foot Trefoil *Lotus corniculatus*.
- 3.4. Harrowing can be detrimental to grassland fungi, particularly waxcaps that are associated with a moss layer. The presence of any grassland fungal interest will be reviewed prior to harrowing.
- 3.5. Harrowing will have the effect of activating the existing seedbank which is present allowing any herbs which persist in the soil which have been suppressed by the thick root mat to germinate.
- 3.6. Post harrowing, natural germination of meadow forbs will be assessed and, if necessary, will be supplemented with an appropriate neutral grassland herb rich native seed mix. This will be preferentially sourced from a local meadow or should this not be available, from a commercial supplier and will be sown post harrowing. Yellow rattle will be included as a component in the mix to suppress subsequent vigorous regrowth by coarse grasses. Sowing will be timed so that germination is successful e.g. in spring, when subsequent rainfall is likely. Otherwise watering will be necessary.

- 3.7. Currently, some vestigial grassland interest is present, with a number of herb species reduced to just a single specimen or small numbers of individuals e.g. Ox-eye Daisy, while other herb species are patchy within the sward such as Ladies Bedstraw. Turfs and plug plants of Ladies Bedstraw from 2 patches to the north west of the ice-house will be translocated into the area of meadow (land edged red).
- 3.8. Aftercare will be undertaken involving regular grass cutting (with removal of the arisings) e.g. every 2 – 4 weeks, during the period the restored sward establishes. Regard to invertebrate food plants will be taken (as per section 3.3 above). In particular, invertebrate lifecycles will be considered and areas of uncut sward may be required to be retained. Supplementary weed suppression will be undertaken as necessary with details of the methods to be employed set out in the full Management Plan.
- 3.9. Long term conservation management will be based on a hay cut regime of a cut in mid-July post flowering and seeding with the hay bailed and removed. An additional early spring cut in late April or early May and/or an early autumn cut in mid to late September will control vigorous grasses. Alternatively, the meadow could be lightly grazed post the hay cut in July (but not before) until the end of October. Regard to invertebrate food plants will be taken (as per section 3.3 above). Climate change is driving changes in flowering dates. For long term management, the timing of hay cuts will be adjusted to align with climate driven changes to flowering dates.
- 3.10. As part of the above, consideration will be given to the faunal interests present including reptiles, Badger and invertebrates, with appropriate safeguards put in place.

#### **4 Consultation**

- 4.1. Gloucestershire Wildlife Trust has been consulted on the drafting of this Framework Management Plan and their comments have been fully incorporated into this final version (see Appendix 1).

#### **5 Conclusion**

- 5.1. A management plan based on the above framework will lead to the development of a botanically species rich meadow while its associated habitats e.g. hedgerows, scrub, pond and trees will also be managed to maximise their ecological potential. Benefits for faunal species will also be incorporated with funding for ongoing conservation management of the habitats secured as part of the development proposals. In conclusion, these prescriptions will provide a varied resource for wildlife that secure and enhance the interest of the Local Wildlife Site.

## **Plan 5487/RGR1**

Location of Retained Grassland for Restoration

Key:  
Retained Grassland for Restoration

**aspect** ecology

Aspect Ecology Limited - West Court - Hardwick Business Park  
Noral Way - Banbury - Oxfordshire - OX16 2AF  
01295 239721 - info@aspect-ecology.com - www.aspect-ecology.com

PRODUCT

Land Adjacent to Oakhurst Rise,  
Cheltenham

TITLE

Location of Retained Grassland  
for Restoration

DRAWING  
NO.

5487/RGR1

REV.

DATE

September 2020



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**Appendix 5487/1:**

- a) Consultation response from Gloucestershire Wildlife Trust on the Framework Management Plan dated 07 September 2020; and
  - b) subsequent follow up email correspondence of the same date
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Gloucestershire Wildlife Trust  
Robinswood Hill Country Park  
Reservoir Road  
Gloucester  
GL4 6SX

William Morrison (Cheltenham) Ltd  
113-115 Pillar House Bath Road  
Cheltenham  
GL53 7LS

info@gloucestershirowildlifetrust.co.uk  
www.gloucestershirowildlifetrust.co.uk  
Telephone: 01452 383333

Registered charity number: 232580  
Registered in England number: 708575

7<sup>th</sup> Sept 2020

Dear Sir,

**Advice on the content of Framework Management Plan for St Edwards Prep School Meadow Local Wildlife Site under planning application 20/00683/OUT.**

This advice is limited to the Framework Management plan only and should not be taken as an endorsement of the planning application itself by GWT.

**Comments on section 2 - Structure for Management Plan:**

As an outline, the headings cover the range of management issues present at the site.

**Comments on Section 3 - Considerations for inclusion in grassland restoration prescriptions:**

3.1 Agree soil nutrient testing is required, assessment of phosphorous level is particularly important for grassland restoration.

3.2 Timing of grass cuts should consider the life cycles of resident invertebrate species (e.g. timing of caterpillar food plant) to avoid wiping out site population. If necessary, leave some areas uncut for invertebrates to complete their lifecycle. Harrowing can be detrimental to grassland fungi, particularly waxcaps that are associated with a moss layer. Be clear that there is not grassland fungal interest

before undertaking harrowing. If there is, adjust the management approach accordingly.





3.4 It is preferable to retain what is already on site. If the residual seed bank is not sufficient, seed sourced from a local meadow would be preferable to seed from a commercial supplier to maintain local genetic integrity.

3.6 As in 3.2 invertebrate life cycles need to be considered. Some areas of uncut grass may be required, though food plants need to be present in uncut areas. Details should be given on method of weed suppression.

3.7 Climate change is driving changes in flowering dates. For long term management, the timing of hay cut may need to move to align with climate driven changes to flowering dates.

Kind regards



Dr Juliet Hynes

Nature Recovery Network Coordinator



**Alistair Baxter**

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**From:** [REDACTED]  
**Sent:** 07 September 2020 16:25  
**To:** Alistair Baxter  
**Subject:** RE: Oakhurst rise/St Edwards Prep School field

Dear Alistair, Thank you for the revised version of the Framework Management Plan (FMP) and the acknowledgment that these comments refer to the FMP only. Gloucestershire Wildlife Trust confirms that the prescriptions within the revised draft of the FMP should result in securing and enhancing the biodiversity interest of the retained areas of the Local Wildlife site.

Kind regards  
Juliet

**Dr Juliet Hynes**  
**Nature Recovery Network Coordinator**  
**Gloucestershire Wildlife Trust**  
Conservation Centre, Robinswood Hill Country Park,  
Reservoir Road, Gloucester, GL4 6SX  
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**From:** Alistair Baxter <[REDACTED]>  
**Sent:** 07 September 2020 16:01  
**To:** Juliet Hynes <[REDACTED]>  
**Subject:** RE: Oakhurst rise/St Edwards Prep School field

Dear Juliet,

Thank you for your response of today's date in regard to the draft Framework Management Plan (FMP). We have taken on board all of the Trust's points and incorporated these into an updated FMP. I would be grateful for confirmation that as a result GWT can now endorse the FMP and its conclusion that *"these prescriptions will provide a varied resource for wildlife that secure and enhance the interest of the Local Wildlife Site"*. We understand that this would not be taken as an endorsement of the planning application itself by GWT.

Regards

**Alistair Baxter**  
Director  
t: 01295 279721 | m: 0787 6232615 | e: [alistair.baxter@aspect-ecology.com](mailto:alistair.baxter@aspect-ecology.com)



response to objection **aspect** ecology

# Technical Briefing Note

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Project: Land at Oakhurst Rise, Cheltenham

## Technical Briefing Note TN13: Response to Charlton Manor Comments dated 04 September 2020

Date: 09 September 2020

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### 1 INTRODUCTION

- 1.1 Aspect Ecology has been appointed by William Morrison (Cheltenham) Ltd. to advise on ecological matters relating to the site at Land Adjacent to Oakhurst Rise, Cheltenham. The site is proposed for residential development and associated landscape enhancements.
- 1.2 A letter from Charlton Manor dated 04 September 2020 has been submitted to Cheltenham Borough Council with comments relating to the ecology at the site. Aspect Ecology has been asked to review and respond to this correspondence. The comments are addressed in the same sequence that they occur within the letter and have been reproduced below for ease of reference.

### 2 COMMENTS

- 2.1 Aspect Ecology has numbered the comments for ease of reference:

- 2.2 **Comment 1:**

*"It is truly regrettable that the annual hay cut of the field has been cancelled (according to the contractor who was scheduled to cut it in early July, "the developers' ecologists need to do more work"). Such a delicate ecosystem is easy to undermine, and it is difficult to believe claims that the future of the site should be trusted to those wishing to profit from the land, when there is scant evidence the biodiversity that exists today is being protected under their stewardship".*

- 2.3 A further botanical survey<sup>1</sup> of the grassland was undertaken by Aspect Ecology following a submission made to the Council by Friends of Charlton Kings, in order to ensure the Cheltenham Borough Council were provided with the most up to date information. To benefit the botanical survey, so as to aid in the identification of species and provide further confidence in the survey results, cutting of the grassland was held back. The cutting of the grassland was further placed on hold to benefit the Gloucestershire Wildlife Trust and the County Ecologist whilst undertaking their own walkover and assessment of the grassland.
- 2.4 With this survey and assessment work now complete, the annual hay cut of the grassland has been re-scheduled for the near future. A minor delay to the cutting of the grass poses no threat to the wellbeing of the grassland ecosystem.

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<sup>1</sup> Technical Briefing Note TN09: Results of Botanical and NVC Survey

2.5 **Comment 2:**

*"With respect to the repeated surveys of the site in July and August (reptiles and grassland), it is regrettable that nothing has been done at the appropriate time of year, since 2016 when this site was first proposed. Any such surveys might have captured its full ecological value. Their absence speaks volumes, as the planning inspector noted in 2019".*

- 2.6 A botanical survey of the grassland was undertaken in July 2019, whilst other surveys of the grassland have been undertaken in September 2016, and August 2020 (see section 2.2 of Aspect Ecology's Ecological Appraisal dated April 2020). The optimal period for neutral grassland surveys is from June to July, with Aspect's 2019 survey falling within this window. Further surveys in differing months would capture species visible at different times of year. It should be borne in mind that the purpose of the surveys is not to conduct a research project on the grassland but simply to adequately define the value of the grassland to inform a planning decision. Hence, no more than an appropriate level of survey is required for this purpose.
- 2.7 In relation to reptiles, survey work was undertaken between July and August 2019. While these months may not be optimal in nature for standard survey visits, as temperatures can on occasion be too warm, if adjustments are made to the methodologies employed to take account of conditions e.g. timing of surveys visits to the early morning or to cooler days, then an effective survey can be undertaken. This approach accords with relevant guidance<sup>2</sup>. Such adjustments were made for the 2019 reptile survey on site and as a result it was effective at recording and defining the reptile interest present. This approach employed is discussed in more detail at paragraph 2.4.4 of Aspect Ecology's Ecological Appraisal dated May 2020.
- 2.8 Accordingly, all survey work has been conducted within appropriate survey windows. The Planning Inspector in 2019 made reference that *"there is no countervailing evidence to indicate a greater presence of reptiles on the site"*. Accordingly, the surveys are of an appropriate level to inform a planning decision.

2.9 **Comment 3:**

*"In particular, the Aspect survey in 2020 returned a similar count to the Bioscan survey done at the same time of year in support of CBC's case at appeal in 2019 (12 vs 14 grassland species, July /August). When the meadow is in flower, a very different result might have been evident; Bioscan's principal ecologist recorded 21 species and discounted a further 4-5 found, photographed and GPS recorded by non specialists, as unproven".*

- 2.10 As discussed above, the level of survey carried out by Aspect Ecology is appropriate to inform a planning application. It is necessary to provide no more than an appropriate level of information to enable an informed planning decision to be made. This level of information has been provided.

2.11 **Comment 4:**

*"The county ecologist states only 43% of the existing grassland will be retained, which sits uncomfortably with statements that 'new wildflower meadow' will be created. As is evident from photos that have already been submitted, the retained grassland is already a wildflower meadow so no 'new' creation is possible. The meadow flowers between April and June but has never been surveyed at that time (other than by Bioscan). Cowslips, vetches, woodrush, pignut, trefoils,*

<sup>2</sup> Froglife Advice Sheet 10: Reptile Survey – An introduction to planning, conducting and interpreting surveys for snake and lizard conservation.

*various buttercups and cuckoo flower predominate (The protected English bluebells, photos taken 3 May 2020, can be found across the field, including on the proposed site of the driveways for houses 22-28 and across the wider site of houses 11-21), not, as Aspect claim, in the hedgerows)*".

- 2.12 We have clarified that the grassland on the site will be retained and enhanced (not created) within the submitted 'Technical Briefing Note TN10: Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation Tool', and this is acknowledged by Gloucestershire Wildlife Trust in their correspondence dated 01 September 2020. The survey work has determined that the herb interest in the grassland is infrequent in nature comprising typically only 5 – 10% of the sward, with the sward dominated by grasses which make up 90 - 95% of the cover. Accordingly, the sward is in a significantly sub-optimal state. While grassland area will be lost to the proposal, the opportunity is present to restore the retained area of grassland to a herb rich sward. The Gloucestershire Wildlife Trust has confirmed the enhancement of the grassland habitat would benefit the ecological network<sup>3</sup>. A Framework Management Plan (see Technical Briefing Note TN12) of how this will be achieved has been agreed with Gloucestershire Wildlife Trust.
- 2.13 In particular, as Aspect Ecology's letter to Gloucestershire Wildlife Trust dated 07 August 2020 sets out, the proposals will:
- **Secure future:** The future of the grassland will be secured and protected such that the risk that its interest would be lost through inappropriate management e.g. application of herbicide, fertilizer or re-seeding would be removed;
  - **Restoration:** Positive work would be carried out to restore the grassland interest to that of a meadow of high conservation value e.g. MG5. The detail of how this would be achieved would be the subject of a specific method statement, but could include the scarification of the sward to expose the underlying seedbank and soil and the import of green hay from a suitable local donor meadow if one is available or alternatively the spreading of an appropriate native wildflower seed mix with a large Yellow Rattle component to reduce the vigour of coarse grasses;
  - **Conservation management:** Favourable grassland conservation management would be secured under the proposals which would be prescribed within a formal management plan. This would then be actioned to ensure the management of the grassland is optimal to maintain the restored botanical interest;
  - **Long term funding:** Funding to manage the meadow would be secured under the proposals. This would most likely arise via a service charge on properties such that an assured source of funding for conservation management of the grassland would be available for the life of the development.
- 2.14 At the present there is no conservation management of the habitats on site. In the absence of the proposals, the prospects for restoration of the grassland are very low as are the prospects for securing the introduction of positive conservation management of the habitats. The proposed development provides an opportunity to protect the retained grassland and secure an appropriate management plan to maximise its biodiversity potential. Indeed, at the present time, there is the potential for the existing grassland interest to be lost, should for example the management of the grassland be altered, or herbicide or fertilizer applications be applied, or the sward re-seeded. By contrast, the proposed development provides the only opportunity to protect and secure the future of the retained grassland alongside an appropriate management plan to maximise its biodiversity potential.

<sup>3</sup> Gloucestershire Wildlife Trust letter to Cheltenham Borough Council on 07 August 2020.

2.15 **Comment 5:**

*"There are repeated statements that the meadow is mown but not baled (although Aspect's evidence to the 2019 planning appeal stated the soil had been compacted by extensive use of machinery - that was also untrue). The field was baled the day before the inspector visited last year (photo below), and has been cut annually for as long as residents can remember. Hay is used by St Edwards School for the school farm, and is of sufficient quality to be usable by the Riding for the Disabled charity (they struggle to source organic hay locally and the school donate their surplus). Plenty of photos are available on social media".*

- 2.16 The grassland at the site was baled for the first time in 2019. Prior to this date arisings were left in situ. Although the hay may be of sufficient quality for the school farm, their requirement for hay is very low and accordingly we are informed that this is typically purchased each year. We are also informed that there is no intention in 2020 to bale the hay.
- 2.17 Such management where the arisings are left in situ is not beneficial to the grassland botanical interests and may be contributing to the currently sub-optimal nature (particularly low herb cover) of the meadow. By contrast, under the proposals an optimal management regime would be secured for the retained areas of grassland, which will include hay cuts with the arising hay baled and removed from site. This would be beneficial for the grassland botanical interest.

2.18 **Comment 6:**

*"Various ecology statements now note that the grassland will be leased to the school for their future use. It is unclear how ecologists are qualified to make that assertion. As a primary school St Edwards does not allow children on uncut grass given the prevalence of deer ticks. In the 10 years our children have been pupils at the school, they have kept off the main wildflower area and used the walking paths cut elsewhere across the site for forest school, nature walks and more".*

- 2.19 The retained grassland east of the development will be protected in perpetuity, whilst management will be sympathetic to its recent designation as a Gloucestershire Local Wildlife Site (LWS) on the grounds of 'Value to Learning'. An outline of the optimal management of the grassland has been set out in a Framework Management Plan that has been agreed with Gloucestershire Wildlife Trust. A full detailed management plan based on the agreed Framework will be secured by condition. Conservation management, enacted under the plan, will considerably enhance the grassland's ecological interests such that its biodiversity interest features will become of considerably more interest for learning, hence furthering the criterion for which the LWS is designated.

2.20 **Comment 7:**

*"There is a conflict between school use and biodiversity protection (as well as child protection, given the claimed access for residents of the new estate) - which is going to take primacy? And why should the tax payer fund (through S106 payment or otherwise) the maintenance of land that is going to be retained for the sole use of a private school"?*

- 2.21 Use for education/learning and protection for biodiversity are compatible, as long as managed in the appropriate way. How this will be achieved will be set out in the full Management Plan for the grassland which will be secured by way of a planning condition. When enhanced, the meadow will provide a more accessible (through increased botanical diversity being more obviously apparent) resource for biodiversity teaching e.g. practical classes in plant taxonomy, nature drawing, countryside management, moth trapping, beetle collecting etc.

2.22 In terms of child protection, there will be no access to the grassland by new residents. All ecological management costs will be financed from the development scheme. No costs will fall to the tax payer.

2.23 **Comment 8:**

*Aspect state that the 'scrub' under the ice house is to be retained in their biodiversity metric, but elsewhere in the application it states that the scrub will be removed as part of the condition to improve the ice house. Which is it?*

2.24 Tree Group 3003 on the ice house is shown as retained on the revised Tree Protection Plan Drawing no. 38-1036.03-F (19 May 2020). Accordingly, this tree group is recorded as retained within the biodiversity metric<sup>4</sup>. The retention of the tree group is acknowledged in the 'Heritage Impact Assessment' April 2020 which states at paragraph 4.7 that *"specifically, it is proposed to undertake selective clearance of scrub, but retaining the mature trees, thereby better revealing the icehouse mound"*. Accordingly, only minor tidying of the scrub around the ice house is proposed. It is not necessary to register such a small area of habitat change within the biodiversity metric as it has no material effect on biodiversity outcomes.

2.25 **Comment 9:**

*"The most recent county ecology statement notes that mature trees will be removed above the badger sett, including ash and sycamore. This area of woodland is described as 'scrub' in the Aspect biodiversity metric rather than hedgerow or woodland, and the removal of the trees is not given comment in the FLAC tree report. Is the data is being used selectively to pass policy tests, rather than objectively to do the right thing by the site and the planning committee"?*

2.26 The DEFRA calculation tool has been completed in accordance with the relevant user guide<sup>5</sup> and technical supplement<sup>6</sup>, and rationale for category selections has been set out clearly within Aspect Ecology's Technical Note TN10 'Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation tool'.

2.27 The FLAC tree report describes the trees under reference Tree Group 3004 as *"Cluster of slender upright principal trees comprising ash and sycamore with a scrubby understorey of other species. Quite dense, no management. Low arboricultural merit"*. They are graded as C category and their removal acknowledged in the tree schedule.

2.28 The data is therefore transparently presented and is objectively utilised in the relevant assessments.

2.29 **Comment 10:**

*"The county ecologist states that mature ash "will be lost" in the next decade to ash dieback. This is unreasonable. Any mature tree could become diseased, but on that basis no tree merits protection, contrary to NPPF guidance. Natural England research indicates that hedgerow ash*

<sup>4</sup> it is coded as scrub in the metric as there is no category in the metric available for trees

<sup>5</sup> Natural England (2019) The Biodiversity Metric 2.0L auditing and accounting for biodiversity: User Guide (Beta version)

<sup>6</sup> Natural England (2019) The Biodiversity Metric 2.0L auditing and accounting for biodiversity: Technical Supplement (Beta version)

*trees appear to have a level of immunity to ash dieback, and therefore have a particular biodiversity importance”.*

- 2.30 The County Ecologist comments that *“there is a good chance that the ash will be lost to ash dieback disease in the coming decade even if the development does not go ahead”*. Hence, the comment from the County Ecologist is in fact qualified. Given progress of Ash dieback across the country at the present time, this comment appears reasoned in nature and hence is appropriate.

2.31 **Comment 11:**

*“There appears to be conflict between the drainage strategy below ground and the tree planting above ground (namely there are claims to an unbroken new tree belt, without explanation as to how trees can be planted over a main drain). This affects the biodiversity metrics, the claimed screening for a Grade 2\* listed building, and the claimed flood protection to the wider River Chelt flood plain”.*

- 2.32 The project engineer has advised that it is standard practice, practical and feasible to plant so that the drainage can be implemented directly below or just to the side of the trees, without causing any harm either to the trees or the drains. The proposed drainage within the tree belt will be installed in line with standard installation methods for this situation (as approved for use by Severn Trent Water), including but not limited to, the establishment of appropriate root barriers and the use of an enhanced pipework specification.

2.33 **Comment 12:**

*“The county ecologist states that the pond at the top of the site will be lost to the development, counter to statements elsewhere in the proposal. Given the pond is spring fed (and has been on Ordnance Survey maps since at least 1836), where is that water going to go”?*

- 2.34 Loss of the pond had been presumed as it is not shown as retained on the submission plans. However, it is noted that the location of the pond is not to be developed. Accordingly, retention would appear to be possible. Accordingly, further consideration has been given by the applicant to this comment and it is now confirmed that the existing pond can be retained and that this retention could be secured by way of a planning condition. As the pond has been confirmed for retention, this will be beneficial to the biodiversity metric and management of this feature will be included within the management plan secured by planning condition. The project engineer has confirmed that the retention of the pond would have no impact on the storm water drainage strategy.

2.35 **Comment 13:**

*“Why is there no comment made on the loss of nearly 30% of an 150+ year old important hedgerow? It is inconceivable that this habitat could be restored or replaced within a 15 year window. Risks to any claimed new habitat include climate change affecting the survival of new planting (drought and floods have killed off any new planting across the Battledown Hill since 2017, other than non native species), the impact of the roe and muntjac deer population in residence, the steep terrain precluding water retention and the dense clay subsoil noted in the Simpson report on drainage”.*

- 2.36 Loss of parts of the existing mature hedgerows are considered at section 4.5 of Aspect Ecology’s Ecological Appraisal dated May 2020. In respect of the dividing hedgerow within the site (H1),

the area of loss is in fact 23.%<sup>7</sup> rather than the suggested 30%. The majority of the site hedgerows will be retained and protected, while losses will be compensated for by new native planting to bolster existing hedgerows alongside new native hedgerow planting, and the provision of a substantial woodland belt. The dividing hedgerow within the site is treated in the biodiversity metric as 'woodland' and accordingly its established value has been acknowledged.

2.37 The establishment of new habitat features will be monitored, with safeguards used as necessary to deter damage from deer, and any failures of planting will be replaced.

2.38 **Comment 14:**

*"Comments from other sources seem to have been ignored across the ecology debate, whereas the claims of William Morrison's planning consultant have been repeated verbatim. Counter views include those of the county moth recorder on record ("lepidoptera assemblage would indicate high quality grassland", first recording of chimney sweep moth in the borough since the 1960s) and HMT's inspector of planning ("there will be a net biodiversity loss to the badger population", full reptile survey necessary before permission is granted) but these have not even been mentioned, let alone addressed. This is regrettable, particularly from supposedly neutral consultees".*

2.39 As discussed above, the grassland is currently in significantly sub-optimal condition, with a very low herb cover of 5 – 10% which has been established from botanical survey work rather than inferred from moth records. The Chimney Sweeper moth has an acknowledged status as 'common'<sup>8</sup>.

2.40 The layout has been substantially revised from that considered by the appeal Inspector such that under the revised proposals Badger interests would be fully safeguarded. Notwithstanding this fact, it should be borne in mind that Badgers are a common species (and indeed almost 35,000 Badgers were culled in England in 2019<sup>9</sup>) and do not enjoy an elevated conservation status. The protection they are afforded in legislation is solely on welfare grounds and the legislation allows for licences to be granted for works on Badger setts to enable development proposals to proceed. The intention of the legislation is for Badgers not to represent an impediment to development.

2.41 There is no reference to a "full reptile survey necessary before permission is granted" in the 2019 Inspector's decision. However, the matter of reptiles is fully addressed by the County Ecologist in their response dated 02 September 2020 which states *"In addition to previous on site surveys Aspect Ecology carried out an artificial refugia survey for reptiles between July and August 2019. Reptiles and evidence of them being present was also directly searched in suitable places/features. I can accept that there is only a low population of reptiles present consisting of only very few individual slow worms and grass snakes. The mitigation and enhancement measures (MM8, EE2, EE3, EE6 & EE7) plus proposed new landscaping should have a neutral to positive impact overall".*

<sup>7</sup> See Technical Briefing Note TN10: Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation Tool. 07 August 2020. Existing area of H1 is 0.3415ha of which 0.2626ha is retained.

<sup>8</sup> <https://butterfly-conservation.org/moths/chimney-sweeper>

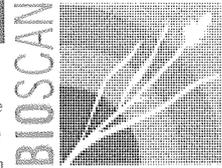
<sup>9</sup> <https://www.gov.uk/government/publications/bovine-tb-summary-of-badger-control-monitoring-during-2019/summary-of-2019-badger-control-operations>

### 3 CONCLUSION

3.1 The points raised in correspondence from Charlton Manor have been considered. In summary:

- The cutting of the grassland on site was delayed to benefit the botanical survey and the site visit by the County Ecologist and Gloucestershire Wildlife Trust. It has now been re-scheduled for the near future;
- Botanical survey work has been carried out at the optimal time of year. The purpose of the surveys is not to conduct a research project on the grassland but simply to adequately define the value of the grassland to inform a planning decision;
- To adjust for the timing of the reptile survey, modifications were made the methodology employed to ensure a satisfactory survey could be conducted. The County Ecologist is satisfied that the findings are robust;
- The grassland on site will be retained and enhanced (not created). The survey work has determined that the herb interest in the grassland is infrequent in nature comprising typically only 5 – 10% of the sward. While grassland area will be lost to the proposal, the opportunity is present to restore the retained area of grassland to a herb rich sward;
- The Gloucestershire Wildlife Trust has confirmed the enhancement of the grassland habitat would benefit the ecological network. A Framework Management Plan of how this will be achieved has been agreed with Gloucestershire Wildlife Trust;
- The future of the grassland will be secured and protected such that the risk that its interest would be lost through inappropriate management e.g. application of herbicide, fertilizer, re-seeding or the leaving of grass cutting uncollected (absence of baling) would be removed;
- At the present there is no conservation management of the habitats on site. In the absence of the proposals, the prospects for restoration of the grassland are very low as are the prospects for securing the introduction of positive conservation management of the habitats;
- By contrast, the proposed development provides the only opportunity to protect and secure the future of the retained grassland alongside an appropriate management plan to maximise its biodiversity potential;
- Use for education/learning and protection of biodiversity are compatible, as long as managed in the appropriate way. How this will be achieved will be set out in the full Management Plan for the grassland which will be secured by way of a planning condition;
- The tree group on the ice house will be retained. Only minor tidying of the scrub around the ice house is proposed;
- The project engineer has confirmed that the proposed tree belt planting can be designed so that it would not affect the drainage pipes which run beneath it;
- The existing pond on the site will be retained;
- The majority of the site hedgerows will be retained and protected, while losses will be compensated for by new native planting;
- The Chimney Sweeper moth has an acknowledged status as 'common';
- Badger interests would be fully safeguarded. Notwithstanding this fact, it should be borne in mind that Badgers are a common species (and indeed almost 35,000 Badgers were culled in England in 2019) and do not enjoy an elevated conservation status.

3.2 In conclusion, a review of the points raised in the correspondence from Charlton Manor finds that these are all already addressed within the application documents. In addition, following the comment raised in respect of the existing pond on site, the applicant has confirmed that this will be retained.



Ms Emma Pickernell  
Senior Planning Officer  
Cheltenham Borough Council  
Municipal Offices  
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29<sup>th</sup> July 2020

Our ref: SW20/E1986/EPL1

Planning application ref: 20/00683/OUT

Dear Ms Pickernell,

### Land off Oakhurst Rise, Cheltenham – Review of Submitted Ecological Appraisal

Following receipt of the ecological appraisal report produced by Aspect Ecology in support of the recently re-submitted planning application for the above site, I have been instructed by the Charlton Kings Friends (CKF) to comment on the likely ecological impacts of the revised scheme.

#### *Biodiversity loss*

You may be familiar with my involvement in this site as part of the 2019 planning appeal at which I presented evidence to the Inquiry that led, in part, to the Inspector's dismissal of the appeal. A particular focus of the Inspectors deliberations regarding ecology, was the assessment I undertook of the net effect of the proposal on biodiversity based on the application of a recognised biodiversity metric<sup>1</sup>. Ultimately the Inspector in his decision found that "*the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy*".

Shortly before the close of the Inquiry, Natural England published a beta version (i.e. consultation draft) of their new metric (Metric 2.0) for review by the industry. Despite reference to this being made in oral evidence at the Inquiry, the applicant's ecologists have once again elected not to apply any form of metric to the conclusions in their current ecological appraisal in respect of the revised scheme. Given the current direction of travel of Government policy (towards mandating use of such metrics to demonstrate delivery of at least 10% 'Net Gain'), and the prominence of this issue at the previous appeal, at best, this seems an oversight.

It has therefore fallen to us, on behalf of CKF, to repeat this exercise for the revised scheme now before you. The attached Figures 1 and 2 show the pre and post construction habitats which I have entered into the new metric. The output from inputting these data into the metric is provided in Tables 1 and 2 below. In summary, based on the Metric 2.0, the development would result in a loss of 10.95 biodiversity units (from 34.32 to 23.37), or a loss of 31.90%. By this measure the revised scheme provides no greater protection of biodiversity on the site than the previous scheme and, as the Inspector found previously, continues to fly in the face of national planning policy and guidance which requires development to not

<sup>1</sup> <https://www.warwickshire.gov.uk/biodiversityoffsetting>

only protect biodiversity but to go further and deliver “net gains for biodiversity”<sup>2</sup>. It is similarly not compliant with local planning policies such as policy SD9 of the Joint Core Strategy<sup>3</sup>, which also require the protection and enhancement of biodiversity as part of development proposals. Relevant parts of this state (emphasis added):

- “1. *The biodiversity and geological resource of the JCS area will be protected and enhanced in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interests*
- ...
5. *Development within locally-designated sites will not be permitted where it would have an adverse impact on the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated*
6. *Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the Local Planning Authority. If harm cannot be mitigated”*

#### *Habitat assessment*

As part of my evidence to the Inquiry, reference was made to the Gloucestershire Key Wildlife Sites (KWS) selection criteria. At that time, 14 ‘key species’<sup>4</sup> had been identified in the grassland, close to the threshold of 20 needed for the site to be of sufficient diversity to be designated as KWS. As part of my current appointment by CKF I have revisited the site in 2020 in order to continue to catalogue the ecological interest present, focusing in particular on the floral diversity of the grassland. A further seven species have been recorded in the grassland in 2020 (see table 3) bringing the total to a minimum of 21. On the basis of this, not only has the site recently been formally put forward to the KWS selection panel for designation as a KWS, but, moreover, it is clear that the appellants ecological consultants have once again failed to accurately represent the true ecological value of this site. Indeed, they have now failed in both 2019 and 2020 to record many of the floral species present, and as a direct consequence, have materially undervalued the diversity and therefore value of the grassland. On the facts, the site clearly has significant ecological value and certainly well above the “site context” frame of geographical reference that is suggested by Aspect in their report.

#### *Conclusion*

The revised scheme does not overcome the inescapable fact, as previously found by the appeal inspector, that the site is of higher valued than the appellant’s ecologists claim, and that as a consequence the proposed development would, notwithstanding the revisions made, still result in a demonstrable and significant loss of biodiversity, contrary to a raft of national and local planning policies. It has fallen to CKF, via ourselves, to document the value of the site in an accurate and properly representative manner and to expose omissions made by the appellant’s ecologists and on which flawed assessments have been made. In

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<sup>2</sup> Paragraph 170 of the National Planning Policy Framework

<sup>3</sup> Other polices include NE2 and NE3 of the adopted Local Plan (2006).

<sup>4</sup> As listed on Table H5c of assessment criteria H5.2.

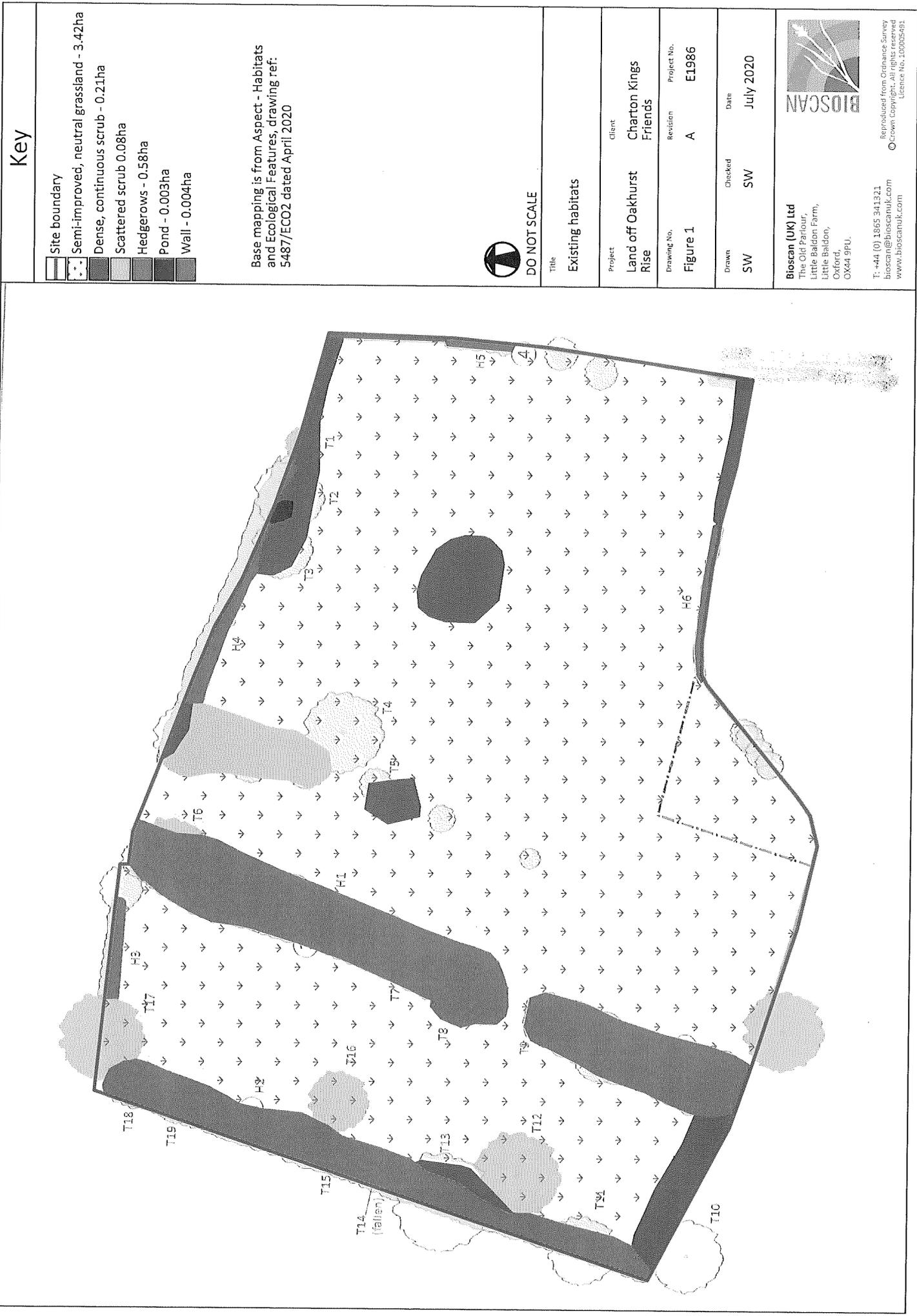
the process of doing so, it has become apparent that the site in fact exceeds the qualification criteria for designation as a Key Wildlife Site, underlining that the impact of the scheme should be assessed in the context of the site being of at least District and more likely County (i.e. Gloucestershire) value for biodiversity. In light of these matters, there can be no other conclusion than significant harm to biodiversity would occur due to the proposed development, and with the backdrop of the previous Inspectors comments, it is clear that this planning application should be refused.

Regards

FOR AND ON BEHALF OF BIOSCAN (UK) LTD

A black rectangular redaction box covering the signature of Samuel Watson.

Samuel Watson MCIEEM  
Principal Ecologist



Key

-  Site boundary
-  Neutral grassland - 2.16ha
-  Development - 1.29ha
-  Scrub/young tree planting - 0.49ha
-  Retained trees - 0.35ha



DO NOT SCALE

Title		Post development habitats	
Project	Client	Revision	Project No.
Land off Oakhurst Rise	Charlton Kings Friends	A	E1986
Drawing No.	Checked	Date	
Figure 2	SW	July 2020	



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Table 3 – Cumulative KWS species list

Scientific name	Common name
<b>Species recorded in 2019</b>	
<i>Carex spicata</i>	Spiked sedge
<i>Centaurea nigra</i>	Lesser knapweed
<i>Conopodium majus</i>	Pignut
<i>Galium verum</i>	Lady's bedstraw
<i>Lathyrus pratensis</i>	Meadow vetchling
<i>Leontodon hispidus</i>	Rough hawkbit
<i>Leucanthemum vulgare</i>	Oxeye daisy
<i>Lotus corniculatus</i>	Common bird's-foot-trefoil
<i>Lotus pedunculatus</i>	Greater birds-foot-trefoil
<i>Luzula campestris</i>	Field wood-rush
<i>Potentilla sterilis</i>	Barren strawberry
<i>Primula veris</i>	Cowslip
<i>Tragopogon pratense</i>	Goat's beard
<i>Trisetum flavescens</i>	Yellow oat-grass
<b>Species recorded in 2020</b>	
<i>Carex flacca</i>	Glaucous sedge
<i>Hyacinthoides non-scripta</i>	Bluebell
<i>Hypochaeris radicata</i>	Cats-ear
<i>Primula vulgaris</i>	Primrose
<i>Ranunculus bulbosus</i>	Bulbous buttercup
<i>Rhinanthus minor</i>	Yellow rattle
<i>Viola riviniana</i>	Common dog violet





## LAND ADJACENT TO OAKHURST RISE, CHELTENHAM



### ARBORICULTURAL REVIEW

Prepared for: Charlton Kings Friends

Prepared by: Ian Monger

10 September 2020

Project reference: F.2622

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## Instructions

Received from: Mrs Sally Walker, resident of Charlton Manor, Ashley Road, Cheltenham, on behalf of the community group 'Charlton Kings Friends' (CKF).

Terms of reference: to review the submitted outline planning application regarding land adjacent to Oakhurst Rise, Cheltenham (ref: 20/00683/OUT) and provide a statement commenting on the arboricultural elements of the development proposal. This follows a similar instruction for my colleague Paul Barton to comment on a previous application (ref: 18/00710/OUT), which was refused in March 2019.

## Scope of work

The scope of my instructions are to:

- visit the application site to familiarise myself with the trees and site context
- review the arboricultural information submitted with the application
- prepare a report giving an independent view of the impacts of the development proposal on the trees at the site.

## Documents used to prepare this report

In preparing this report, the following documents (amongst the full suite of submitted documents) have been obtained from the Cheltenham Borough Council website:

- Proposed site plan - drawing no: PL005 Rev B (April 2020)
- Arboricultural report - ref: SC38-1036 (April 2020)
- Landscape Strategy plan - drawing no: 19216.101 Rev F (April 2020)
- The Woodlands Trust consultee comment (June 2020)
- Ancient Tree Forum consultee comment (June 2020)

A copy of Tree Preservation Order (TPO) (No.1, 1981) was also obtained from the Cheltenham Borough Council tree officer.

## Summary

The revised planning application for reduced number of dwellings proposed has clearly improved the development proposal in terms of the retention of veteran and protected trees, but the development proposal still has the potential to cause harm to significant trees. In

particular, hydrological changes due to obstruction of soil water flows by new structures may have an adverse impact. Despite protective measures that have been recommended, disturbance to the veteran tree habitats (including soil, ground flora and fungi) during construction and in the site's end-use is likely to occur. There remains a significant risk of permanent damage to high value trees, and of deterioration of the irreplaceable habitats of veteran trees.

## 1. Introduction

- 1.1. I am Ian Monger, senior arboricultural consultant at Barton Hyett Associates and a professional arboriculturist. I have 15 years experience working in the arboricultural sector including senior tree officer for a unitary local authority and as an independent consultant (which has included freelance tree officer work for a unitary authority). I am a professional member of the Arboricultural Association. I hold a BSc (Hons) in Environmental Science and Level 3 Technicians Certificate in Arboriculture. I am currently appointed by The Planning Inspectorate as a Non-Salaried Inspector for the determination of TPO appeals.
- 1.2. I have been asked to provide an independent review of the documents submitted to Cheltenham Borough Council (CBC) in relation to an outline planning application for development of an existing field to the north of St Edward's Preparatory School, to the east of Oakhurst Rise, Cheltenham. The outline planning application is for the construction of 43 dwellings consisting of a mixture of house types and flats. The application seeks approval for the proposal's access, layout and scale but appearance and landscaping are to be a reserved matter.
- 1.3. A previous outline planning application for 69 dwellings was refused in March 2019. Reasons for CBC's refusal can be summarised as:
  - Failure to address constraints and requirements of the land allocation policy within the emerging Cheltenham Plan
  - The loss of trees within the site including a significant TPO'd tree and likely deterioration of retained veteran trees
  - Impact on the setting of nearby listed buildings
- 1.4. CBC's additional reasons for refusal on ecology and visual impact grounds were later withdrawn.
- 1.5. An Appeal against the refusal was dismissed in September 2019. The balancing of planning considerations which led the Inspector to dismiss the Appeal stand on their own. In any case, this new planning application will be considered by CBC on the basis of the details of new proposal, current national and local planning policy and consultation responses. I make some reference to Forbes-Laird Arboricultural Consultancy's (FLAC)

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Proof of Evidence to the Appeal where explanation of its tree assessment methodology is missing from the current submission.

- 1.6. An arboricultural report prepared by FLAC has been submitted with the new planning application. This includes a tree survey, proposed tree retention and removal plan and a tree protection plan.
- 1.7. This review seeks to provide an independent arboricultural viewpoint on the merits and potential impacts of the proposed development on the site's trees. It is not intended to investigate or question the professionalism or competence of the author of the submitted arboricultural reports. I acknowledge that many aspects of arboricultural consultancy are inherently subjective and that there are numerous interpretations of published guidance, recommendations and standards that can affect the conclusions made on a site.

## 2. Method of review

- 2.1. In order to review the planning application and its impact on trees, I began by obtaining the development proposal plans and arboricultural report.
- 2.2. Following a desktop review of these documents, I made a site visit on 3rd August 2020, where I met Mrs Walker (Charlton Manor) and walked over the site to discuss some particular matters pertinent to this planning application.
- 2.3. This review has been conducted as a desktop study having studied the amended proposal and the arboricultural report and submitted comments which are available for public viewing on the council's online planning application register.

## 3. Review of the submitted arboricultural report and objection responses

- 3.1. The FLAC arboricultural planning submission (ref: SC38-1036, April 2020) consists of a tree survey schedule with a key, 'RAVEN' tree assessment, tree retention and removal plan and an outline tree protection plan. The submission is brief and succinct, dealing with matters arising from the Appeal and how they have been addressed, how the proposal complies with national and local planning policy (including the Tree Preservation Order (TPO) and a matter for resolution by the Planning Committee relating to tree 3015.
- 3.2. The submission itself provides minimal site-specific description or commentary regarding the impacts of the proposed development. The tree schedule contains all the site-specific details of the trees, including a column labelled 'Proposal' which states whether each tree/group/hedge is to be retained, partially retained (groups and hedges) or removed in order to facilitate the development.

### Veteran/ancient tree categorisation

- 3.3. The Woodland Trust (WT) and the Ancient Tree Forum (ATF) have submitted detailed objections to the proposal (June 2020), and refer to FLAC's submitted report and to the 'Ancient Woodland, ancient trees and veteran trees: protecting them from development' guidance ('Standing Advice') produced by the Forestry Commission and Natural England. The WT objects on the basis of damage and deterioration of seven veteran trees. The ATF

objects because they assert that the way veteran trees have been identified by FLAC means that trees which should be protected as such by national planning policy have been wrongfully excluded. FLAC has provided detailed responses to each objection (June 2020) which together add a significant degree of additional commentary to the submitted report.

- 3.4. The objections and subsequent responses focus on disagreements about: the definitions of what is a veteran tree within the national planning policy, policy guidance and published literature, the methodology for assessing veteran trees and the categorisation of the site's trees which follows from these. FLAC's submission uses its in-house 'RAVEN' methodology and identifies 7 veteran trees at the site. The 'RAVEN' methodology, while not as such 'endorsed' by the Appeal Inspector (in the usual sense of the word), was certainly accepted. In contrast, the WT use as their starting point the Ancient Tree Inventory (ATI) to identify veteran trees at the site (which is a source of information 'endorsed' within the Standing Advice (in the usual sense of the word), despite criticism of it from FLAC). The ATF focuses on the characteristics of veteran trees as the starting point. Both the WT and ATF disagree strongly with RAVEN's reliance on tree age/stem size as a starting point.
- 3.5. The result of the different approaches is that:
- The WT identify five additional trees (3010, 3014, 3015, 3022, 3027) which they believe should have been identified as veteran in the submission
  - The ATF identify *at least* two additional trees (3010, 3014) as veteran, with insufficient information on others
  - FLAC identify 4 trees (3021, 3026, 3028, 3031) which neither WT nor ATF highlight as veteran trees (albeit the ATF might include these with sufficient information).
- 3.6. Identifying veteran trees is not a straightforward or simple exercise when very old trees are in question, and there is demonstrably some inherent subjectivity involved which can include perceptions of age, rarity or special landscape context. Therefore, it is not my intention to muddy the waters for CBC with a fourth independent assessment. The FLAC report uses a consistent and transparent methodology in identifying the site's veteran and ancient trees, and so I do not find a sufficient reason to disagree with its findings in this regard.

### Application of Veteran Tree Buffers (VTBs)

3.7. The FLAC report and plans include veteran tree buffers (VTBs) around all trees identified as veteran/ancient trees, which includes all those assigned the A3 quality category.

3.8. Three of the veteran/ancient trees 3007, 3021 and 3028 are identified as 'relic' veteran trees in the RAVEN assessment. RAVEN defines a 'relic' veteran tree as one bearing <75% of its former maximum crown volume. FLAC explained the concept of a 'relic' veteran tree within the arboricultural Proof of Evidence to the 2019 Appeal:

*'3.3.8 Concerning Natural England's veteran tree buffer recommendation, this is clearly a precautionary, rather than evidence-based, protective distance. Whilst as a generality this might be suitable for some trees (albeit not justifiably applied as an absolute), it is the case that many veteran trees simply do not require a protective offset of the magnitude computed by the Natural England method (15 times stem diameter).*

*3.3.9 This is because many veteran trees with a large-diameter stem have lost the greater majority of their original crowns. Because there is an unbreakable, biologically-imperative link between roots and shoots (known as the root:shoot ratio), such trees have a correspondingly compact root system too. Logically, it follows that where a tree occupies a much smaller biological space as a result of significant crown loss, it can be safeguarded by a reduced protective buffer compared to where it does not.'*

3.9. Instead of a VTB of 15 times the stem diameter recommended in the Standing Advice, the RAVEN methodology caps the VTB at 15 metres radius which results in a smaller area/volume of soil being afforded protection in the site design and construction methodology.

3.10. The concept of a 'relic' veteran tree is not recognised in the Standing Advice, nor in published veteran tree literature or the objections of the ATF and WT. Nor does it appear within the RAVEN methodology itself.

3.11. The 'relic' veteran tree concept focuses on the '*much smaller biological space*' that a veteran tree with a reduced crown and root system may take. But the Standing Advice VTB seeks not only to mitigate damage to a tree's roots (which might still exist beyond a

calculated root protection area (RPA) or VTB), but also to mitigate direct impacts to soil, ground flora and fungi, the water table and drainage, and from pollution and disturbance to wildlife.

- 3.12. The application of a VTB to a veteran tree in accordance with the Standing Advice is not a means to *avoid* impacts, but is a means to *reduce* (mitigate) impacts. In this way, a VTB is necessarily precautionary to reduce impacts to an irreplaceable habitat.
- 3.13. It should be noted that the RAVEN methodology recognises extensive decay, extensive hollowing, crown senescence and retrenchment as additional primary features of veteran trees, but the 'relic' concept then downgrades the degree of mitigation provided by a VTB based on these these very factors. This is akin to 'begging the question'.
- 3.14. Whereas the Standing Advice would afford trees 3007 and 3021 VTB diameters of 21.8m and 22.8m respectively, they are only provided with VTBs of 15m diameter in FLAC's submission.
- 3.15. It is of note that FLAC's definition of a VTB for a 'relic' tree on the tree survey and retention plan submitted for the 2018 planning application was '*...a maximum and fixed VTB... of 15m radius*'. FLAC did not adhere to its own definition in that submission. As before, the FLAC submission for the current proposal calculates the VTB of tree 3028 - on the basis of a smaller north-west fragment of the original stem which is alive measured as 740mm diameter - as 15 times the remaining stem diameter, giving a VTB radius of 11m. Any definition of a VTB for a 'relic' tree (whether at a fixed 15m radius or not) has been removed from the current submission.
- 3.16. I am unconvinced by the concept of 'relic' trees, of FLAC's application of VTBs to them and of how this relates to the Standing Advice on veteran trees.
- 3.17. While the application of the concept of 'relic' veteran trees has no consequences for tree 3007 in the submitted design, it has significant consequences for potential impacts to 3021. The Standing Advice VTB of 15 times the stem diameter would bring the buildings and gardens of Plots 10, 11 and 13 and the road leading to Plot 10 within the VTB.

Arboricultural Impacts Assessment (AIA).

- 3.18. The FLAC submission lacks detail on the anticipated impacts of the development proposal. The assessment of impacts to trees is confined to a column in the tree schedule that states whether the tree is to be retained or removed, as shown on the submitted tree removal and retention plan.
- 3.19. The report does not provide comment on potentially damaging construction activities relevant to the site such as alterations in ground levels. While FLAC provided observations on potential hydrological impacts on trees in its Proof of Evidence to the Appeal, no assessment has been provided for the current application. Longer-term end-use indirect impacts on the veteran tree habitats, such as increased light from dwellings is not assessed. Although this may be beyond the remit of an arboriculturist, at least some recognition of potential end-use impacts should be provided for further ecological assessment and design.

**4. Review of the development proposal in relation to trees**

- 4.1. The FLAC submission summarises that the design of the proposals allows the retention of tree 3014 and the removal of all construction and gardens from veteran tree buffer zones, which it says addresses the matters arising from the Appeal decision in full.
- 4.2. The reduced number of dwellings proposed has clearly improved the development proposal from an arboricultural point of view. Trees, including the significant notable and veteran trees, are afforded more open space around them which will reduce the potential for damage and decline. New surface and foul drains within the proposed residential area are accommodated within the new road layout and outside of the RPAs and VTBs of trees.
- 4.3. There are several aspects of the proposal which are of note:

Retention of protected and veteran/ancient trees

- 4.4. The new design proposal for the site retains English oak tree T3014. The design also retains all of the trees identified as veteran trees within FLAC's submitted RAVEN

assessment, as well as all trees identified as veteran on the ATI. All individually-protected trees within the TPO will be retained.

- 4.5. Protected trees (those trees within area A3 of the TPO and present when the TPO was made) within TG3008 at the north-west site boundary would be removed for the new site access and for Plots 1 and 42/43.

#### Potential impacts of the proposed development

##### Oaks 3014 & 3015

- 4.6. Oak tree 3014 has been categorised as a B3 quality tree and has an RPA of 11.76m radius. However, given that the tree as 40+ years remaining safe useful life expectancy and has some veteran characteristics with the potential to become a veteran the tree appears to be a 'high' value tree within the definition of policy GI3 Trees and Development of the Cheltenham Plan. Oak tree 3015 has been categorised as an A1 quality tree and has an RPA capped at 15m radius.
- 4.7. The proposal is to isolate the two trees together within an island of open space surrounded by new road to the north, east and south and Plots 29 and 32 to the west. New structural street tree planting will be provided along the road edges.
- 4.8. A small portion of the periphery of the RPA of 3014 is within the boundary of Plot 30 and meets the foundations of the dwelling. Although RPAs are the standard layout tool when considering trees and development, it is worth underlining that an RPA is the *minimum* area around a tree deemed to contain sufficient roots and rooting volume to maintain a tree's viability. Recent research in to the extent of tree roots of old trees has shown that roots extend well beyond the 'drip line' of the canopy, and beyond the capped 15 metre radial RPA as recommended in BS5837. Using a ground penetrating radar, the roots of a mature oak tree at Burghley Estate were found at 24 metres from the stem<sup>1</sup>. It is therefore anticipated that the proximity of Plot 30 would result in some some root severance/loss, and soil disturbance within this area is inevitable.
- 4.9. A small portion of the north-west part of the notional RPA of 3015 (25m<sup>2</sup> or approx 3.5%) will be impacted by the proposed carriageway turning head, footway and car parking

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<sup>1</sup> 'An examination by TreeRadar: <http://sharonhosegoodassociates.co.uk/wp-content/uploads/2017/01/Burghley-TreeRadar-report.pdf>

spaces for Plot 29. The FLAC report demonstrates that an additional 50m<sup>2</sup> of land contiguous with the RPA can be protected from construction activity. FLAC's assessment is that the incursion would not result in a material adverse impact on the tree, but suggest no-dig construction as an option to reduce the risk of adverse impact further. The feasibility of no-dig construction of highway proposed for adoption depends on whether the Highway Authority accept this construction method as meeting its standards.

- 4.10. The submitted tree protection plan shows the location of physical protective barriers and the area of road and parking which could be constructed using a no-dig cellular confinement system. A brief working method for installation of the surface is provided on the plan. I am concerned that the locations of the protective barriers leave very little working space for, for example, excavation to achieve levels and any grading that might be required and installation of kerbs and haunching. Additional working space might necessitate slightly greater incursions into RPAs than shown on-plan. But given that the application is for outline permission, more detailed information could be approved at a later stage.
- 4.11. The isolation of the trees within the open space island, surrounded by hard surfaces with associated drains on the sloping ground above T3015 may alter the local hydrology of the soil, reducing the availability of soil moisture to the trees.
- 4.12. Alteration of the shallow (max. 0.5m deep) topsoil by the construction of the carriageway to the south and east of the trees potentially could reduce the downward flow of water to the trees, or conversely could lead to containment of water within the RPAs. The shrinkable clay ground conditions might require deeper construction extents than is typical, and no detailed assessment of potential hydrological impacts on the trees has been provided for the current application.

Veteran oaks 3007, 3018, 3026, 3030 & 3031

- 4.13. The VTBs of veteran oaks 3007, 3018, 3026, 3030 & 3031 are fully respected within the layout in accordance with the Standing Advice. No structures, new surfaces or drains are located within the VTBs. This is a significant improvement on the previous proposal. The feasibility of protecting the VTBs from construction activity is demonstrated.

## Veteran ash T3021

- 4.14. The application of the concept of 'relic' veteran, and the associated VTB which is capped at 15m by FLAC, has consequences for potential impacts to 3021. The capped VTB is respected by the layout except for a small part of the west periphery which is included within the garden of Plot 10. However, the Standing Advice VTB of 15 times the stem diameter (22.8m radius) would bring the buildings and gardens of Plots 10, 11 and 13 and the road leading to Plot 10 within the VTB.
- 4.15. If CBC accept the concept of a 'relic' veteran tree and the application of a 15m cap on its VTB, this would appear to be contrary to the Standing Advice.
- 4.16. Obstruction of the downward flow of water through the shallow (max. 0.5m deep) topsoil by structures to the north and north-east could lead to decreased availability of water within the VTB. The shrinkable clay ground conditions might require deeper building foundations than is typical, and no detailed assessment of potential hydrological impacts on the trees has been provided for the current application.

## Veteran oak T3028

- 4.17. The layout design respects the VTB of oak 3028, although rear gardens and the garage of Plot 7 abut the edge of the VTB.
- 4.18. I am concerned that the location of the protective barrier adjacent to the garage of Plot 7 leaves very little working space. Additional working space, including scaffolding which straddles the protective barrier, might necessitate a slightly greater incursions into the RPA than shown on-plan. But given that the application is for outline permission, more detailed information could be approved at a later stage.
- 4.19. The tree would become partially isolated between new dwellings, and I am concerned that the fencing specification shown on the tree protection plan is inadequate to protect against ground and dust pollution during construction. A more appropriate specification (including screening barriers) could be approved at a later stage. I am also concerned about indirect impacts such as increased light from dwellings could degrade the habitat. It is not uncommon for isolated areas such as this to suffer from tipping of garden waste and informal access. The submitted landscape strategy identified that the area is not suitable for public access, and that appropriate deterrent planting can help to mitigate some of the

potential indirect impacts. Consideration should be given to securing more detailed information at a later stage.

- 4.20. Obstruction of the downward flow of water through the shallow (max. 0.5m deep) topsoil by structures to the north and north-east could lead to decreased availability of water within the VTB. The shrinkable clay ground conditions might require deeper building foundations than is typical, and no detailed assessment of potential hydrological impacts on the trees has been provided for the current application.

#### Protected oaks 3032 & 3033

- 4.21. The site's drainage outflow to existing off-site connections to the south and south-west is proposed to pass through the RPAs of protected oak trees 3032 and 3033. This is an improvement on the previous application, which proposed drainage through the VTB of veteran oak 3031. The tree protection plan notes that a trench-less technique should be used to minimise damage, and the arboricultural Proof of Evidence provided at the Appeal indicated that trench-less techniques are feasible.
- 4.22. It is reasonable to accept that more detailed specifications and working methods, which should include on-site arboricultural supervision, can be approved at a later stage.

#### Proposed Landscape Strategy

- 4.23. The proposed landscape strategy includes planting of a new native species woodland belt to the south-east of the residential area running from veteran oak 3007 to meet hedgerow group TG3005 at oak 3022. New open space, street and garden tree planting is also proposed. In the long-term, future mature canopies of new street tree and woodland belt planting may meet above the proposed carriageway and provide connectivity to the isolated oaks 3014 and 3015.
- 4.24. The proposed woodland belt contributes to compensating for the connectivity lost by the severance of the hedgerow group TG3005 for the proposed layout, and would eventually provide a visual screen. However, these benefits will take time to accrue, and the success of tree/woodland establishment depends on the adequate allocation of resources to, and implementation of, a new tree planting management plan. A new 10-year tree

management plan 'heads of terms' document has been submitted which aims to achieve 100% successful establishment of new tree and hedge planting.

- 4.25. The ground at the site has been shown to be a maximum of 0.5m deep slightly silty clay topsoil over firm to stiff clay. Obstruction of the downward flow of water through the shallow (max. 0.5m deep) topsoil by structures to the north and north-west could lead to decreased availability of water within the planting area.
- 4.26. The site's documented aspect and ground conditions and my observations on site suggest to me that successful tree establishment, to independence in the landscape, is likely to require a high level of resources over a long period of time. The usual landscape scheme tree replacement condition period of 5 years is likely to be insufficient to secure delivery of an approved detailed scheme in the long-term. A condition for the implementation of the new tree management plan over its full 10-year period would provide a stronger basis to ensure successful establishment of the new trees. If reliance is placed on planning condition(s) for the successful implementation of the detailed landscape scheme, the wording of such condition(s) should be carefully considered.
- 4.27. Although not a common practice, a Tree Preservation Order (TPO) can be made to protect trees to be planted pursuant to a condition imposed under paragraph (a) of section 197 of the TCPA (planning permission to include appropriate provision for preservation and planting of trees). That is to say, a TPO can be made to protect trees, groups of trees or woodlands *yet to be planted*, but which are specified within an approved detailed landscape scheme. Such an Order takes effect from the time the trees are planted.
- 4.28. For a tree protected by such as TPO as an individual or within a group of trees (but not woodlands) landowners have a duty to replace a tree which is removed, uprooted or destroyed because it is dead (or in contravention of the Order or because it presents an immediate risk of serious harm). The local planning authority can enforce this tree replacement duty by serving a tree replacement notice. (Enforcement by serving a tree replacement notice is discretionary, can be dispensed with and can be appealed).
- 4.29. The making of a new TPO to protect at least the new woodland belt as a group (or groups) of trees would provide CBC with a stronger basis on which to ensure the successful establishment of the new trees in the longer-term.

National and Local Planning Policy

- 4.30. Paragraph 175c of the National Planning Policy Framework (NPPF) states that *'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists'*.
- 4.31. In my opinion, while the current proposal is much-improved from the previous proposal, there remains a significant risk that the proposed development could have a negative impact on some of the veteran trees from construction pollution and end-use light pollution, and by changing the soil ecosystem and hydrology that would lead to their premature deterioration.
- 4.32. CBC's Cheltenham Plan was adopted in July 2020. It makes specific reference to the importance of trees in the local landscape, and contains four policies of relevance to trees at the site:

HD4: Land off Oakhurst Rise

*This site-specific policy includes requirements for development proposals for Oakhurst Rise to demonstrate the protection of key biodiversity assets and mature trees and the long term protection of mature trees and hedges.*

D3: Private green space

*The policy requires that proposals for development within extensive grounds of large properties... where appropriate , will be required to: a) retain mature trees; b) retain and enhance existing landscaping; c) provide new landscaping; d) avoid disturbance of significant habitats.*

GI3: Trees and development

*Development which would cause permanent damage to trees of high value (Note 1) will not be permitted. (Note 1: 'High value' means a sound and healthy tree with at least 10 years of safe and useful life remaining which makes a significant contribution to the character or appearance of a site or locality).*

The proposal includes the removal of mature trees, such common ash 3016, the protected trees within TG3008 and trees within TG3005. Hydrological changes due to obstruction of soil water flows by new structures may have an adverse impact on, in particular, high quality trees 3014 and 3015 and veteran trees 3021, 3028 and 3021. Despite protective measures, disturbance to the veteran tree habitats (including soil, ground flora and fungi) during construction and in the site's end-use is likely to occur. In my opinion, the proposal does not comply with policies HD4, D3 and G13.

The proposed landscape strategy can provide a net gain in the overall canopy cover at the site and enhance the existing resource. In my opinion, the proposal complies with elements b) and c) of policy D3.

G12: Protection and replacement of trees

*In cases where trees are not protected by a Tree Preservation Order or by being in a Conservation Area, but contribute to the townscape and character of the town, the Council will consider including such trees in a Tree Preservation Order.*

Given the difficult growing conditions at the site, the making of a new TPO to protect at least the new woodland belt as a group (or groups) of trees would provide CBC with a stronger basis on which to ensure the successful establishment of the new trees in the longer-term.

## 5. Conclusions

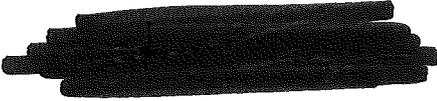
- 5.1. My review of the site and the submitted arboricultural report leads me to the following conclusions:
- 5.2. The application site contains numerous trees that are of high value from a conservation and historical point of view. Seven of these are considered to be veteran trees which provide an irreplaceable habitat and many are important landscape tree features. As such, a precautionary approach should be adopted when designing any development proposals at the site to in order to reduce negative impacts on the trees, their soil, ground flora and fungi, the water table and drainage, and from pollution and disturbance to wildlife. This approach is clearly set out at both the national and local level planning policy.
- 5.3. The arboricultural information submitted with the planning application is succinct. The FLAC report uses a consistent and transparent methodology in identifying the site's veteran and ancient trees, and so I do not find a sufficient reason to disagree with its findings in this regard. However, it lacks a detailed assessment of the the development impacts to trees and conversely from trees to the development in future years. While FLAC provided observations on potential hydrological impacts on trees in its Proof of Evidence to the Appeal, no assessment has been provided for the current application.
- 5.4. The concept of a 'relic' veteran tree is not recognised in the Standing Advice, nor in published veteran tree literature or the objections of ATF and WT. Nor does it appear within the RAVEN methodology itself. The application of the 'relic' veteran tree VTB has significant consequences for potential impacts to 3021. If CBC accept the concept of a 'relic' veteran tree and the application of a 15m cap on its VTB, this would appear to be contrary to the Standing Advice.
- 5.5. The reduced number of dwellings proposed has clearly improved the development proposal in terms of the retention of veteran and protected trees, but the development proposal still has the potential to cause harm to significant trees. In particular, hydrological changes due to obstruction of soil water flows by new structures may have an adverse impact on, in particular, high quality trees 3014 and 3015 and veteran trees 3021, 3028 and 3021. Despite protective measures, disturbance to the veteran tree habitats (including

soil, ground flora and fungi) during construction and in the site's end-use is likely to occur. In my opinion, the proposal does not comply with policies HD4, D3 and GI3.

- 5.6. Site conditions suggest to me that successful new tree establishment, to independence in the landscape, is likely to require a high level of resources over a long period of time. The usual 5 year landscape scheme tree replacement condition period is likely to be insufficient to secure delivery of an approved detailed scheme in the long-term. If reliance is placed on planning condition(s) to achieve this, the wording of such condition(s) should be carefully considered. The making of a new TPO to protect at least the new woodland belt as a group (or groups) of trees once planted would provide CBC with a stronger basis on which to ensure the successful establishment of the new trees in the longer-term.

## 6. Recommendations

- 6.1. I have concluded through my review of the site and the proposed development that there remains a significant risk of permanent damage to high value trees, and of deterioration of the irreplaceable habitats of veteran trees.
- 6.2. I recommend that a detailed soil analysis and hydrological assessment is carried out in order to understand the soil hydrology and how the proposal would impact the high quality and veteran trees.



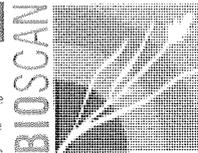
Ian Monger  
BSc (hons), MArborA.  
Senior Arboriculturist

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**References:**

- 1) British Standards Institution (2012). BS5837:2012 'Trees in relation to design, demolition and construction - recommendations'.
- 2) Cheltenham Borough Council (2006). 'Cheltenham Borough Local Plan - Second Review 1991-2011'.
- 3) Department for Communities and Local Government (2012). 'National Planning Policy Framework'
- 4) Forestry Commission & Natural England (2018). 'Guidance: Ancient woodland and veteran trees: protecting them from development". Viewed online at: <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences#veteran-trees>.
- 5) Hosegood, S., Lee, I. (2016). An unpublished report of the examination of tree roots of an oak tree at Burghley Estate. Viewed online at: <http://sharonhosegoodassociates.co.uk/wp-content/uploads/2017/01/Burghley-TreeRadar-report.pdf>.





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Cheltenham Borough Council  
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11<sup>th</sup> September 2020  
Our ref: SW20/E1986/EPL2  
Planning application ref: 20/00683/OUT

Dear Ms Pickernell,

#### Land off Oakhurst Rise, Cheltenham – Addendum Ecological Response

Following the submission of my previous report in respect of the above site and planning application (ref: SW20/E1986/EOL1, dated 29<sup>th</sup> July 2020), I am aware that two further submissions have been made by the applicants ecologist's dated 10<sup>th</sup> and 17<sup>th</sup> August 2020, and an online comment has also been submitted by the county ecologist, Gary Kennison, dated 14<sup>th</sup> August 2020. I have also been made aware of a more recent submission by the Gloucestershire Wildlife Trust (GWT), dated 1<sup>st</sup> September.

I have been instructed by Charlton King Friends (CKF) to comment on these new submissions, which I do below.

#### Metric-based assessment of biodiversity loss

##### Assessment of biodiversity loss using Defra Metric 2.0

I thank the applicant's ecologists Aspect for providing accurate measurements for each habitat type on the site, which CKF were, of course, unable to obtain from the submitted drawings due to their PDF format, although it is noted that the estimates were nevertheless within an acceptable error margin of the actual totals. I see no reason to disagree with the figures that have now been provided, although I note there is a discrepancy between the site area on the application form of 4.29ha and the total reached by Aspect of 4.12ha.

In the light of these area measurements, I have updated the Metric 2.0 assessment and discuss the results below. Several important points of clarification need to be made about the input parameters first, however.

- i) I note the comment by Aspect Ecology that in Bioscan's Metric 2.0 assessment "*It is assumed that all habitats will be lost and re-created*". I have not been party to discussions regarding the development of the landscape strategy or the proposals for enhancement. In keeping with parties that are outside of the application team, I have had to rely upon the information submitted as part of the application, in this instance the ecological mitigation and enhancements drawing (ref: 5487/EC04) included in the submitted ecological appraisal report (ref: 5487 EcoAp2020 vf /DW). In respect of the two largest blocks of grassland on the site, this drawing

states "Creation of new grassland habitats" [underline added]. I concluded (not entirely surprisingly) from this that the existing grassland would be removed and replaced. I thank Aspect Ecology for clarifying the position and note that any suggestion therein that the development would deliver 'new' grassland, cannot, therefore, be correct and any apparent 'benefit' of grassland creation from the scheme should be discounted in the planning balance as a result.

However, in light of the need to create an artificial badger sett in the grassland in the southwest corner of the site, I do question whether in this area any retention of extant resource would be practically achievable, given the ground disturbance required. This means that the only block of grassland that could in reality be retained (rather than recreated) is that on the east side of the development. The result of this is that approximately a quarter (1.06ha) of the existing grassland would actually be retained under the proposals, with some 0.85ha of grassland removed and recreated. I have factored this correction into the revised metric assessment detailed below.

- ii) With regard to the suggested re-categorisation of the habitats in the baseline metric assessment, there is little need to debate this point in terms of metric outputs as there is no change in the distinctiveness score between 'other mixed woodland' (Bioscan categorisation) and 'scrub' (Aspect categorisation). In other words, the proposed re-categorisation results in no (zero) change to the assessed unit score. I am content to use either category, noting at the same time that the description in the Ecological Appraisal report<sup>1</sup> refers to scattered scrub (together with 'scrub') as being 'bramble'. The proposed re-categorisation therefore fails to reflect the fact that this area of 'scattered scrub' is in fact a small copse of trees (see Photo 1) and I maintain that 'other mixed woodland' would therefore be more appropriate.

In the absence of an accurate description of this habitat in the ecological appraisal, I have based my assessment of the parameter 'condition' on my own visits to the site. It is clear that the condition of this habitat is being hampered by the extensive badger activity in this area which is restricting the development of the ground flora. As such, based on the combination of these two factors, i.e. the poor ground flora but presence of mature trees, I consider a condition assessment of 'moderate' to be justified.

Even if the 'condition' of this habitat in the Metric is reduced to 'poor' (as Aspect suggest), the result is to only reduce the biodiversity unit value of this area from 0.64 to 0.32 a change of 0.32 units. The need to argue for such a small change is a symptom of the desire by Aspect to achieve every possible fraction of a unit out of disputed tweaks to the input parameters to engineer an output figure that approaches the threshold of acceptability in policy terms. This itself reflects that this is a development proposal that is innately damaging to the on-site biodiversity resource and that inadequate compensation is proposed for such damage. Even if the suggested tweaks are accepted, they have the result of no more than scraping the site's performance over the 'zero' line: the metric calculation Aspect have submitted shows an overall 0.48 unit increase on the site. However the clear direction of travel of national and local planning policy is towards biodiversity net gain being measured as a policy compliant material consideration only where a 10% net increase is demonstrated – indeed this is set to become a national mandatory requirement in the Environment Bill and, pre-empting this, has already been adopted by many

<sup>1</sup> Aspect Ecology ref: 5487 EcoAp2020 vf /DW, dated April 2020

## Summary of Comments on Cheltenham Borough Council L2 11-09-20 - final GK comments.pdf

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- Number: 1 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:12:30  
This is disingenuous as Aspect Ecology have corrected use of creation in recent correspondence. In any case we are talking about through better management etc. establishing wildflower rich grassland from existing and this is a significant gain and in no way can be discounted. The metric should not be slavishly followed in the way set out here as it will give perverse results as I have previously intimated.
- Number: 2 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:15:11  
Extremely negative conclusion and ignores the fact that disturbance by badgers can enhance vegetation particularly the dense species-poor grassland currently present. Revised metric results presented here should be disregarded.
- Number: 3 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:19:53  
if you are going to use the metric you must record habitats as they are in the existing valuation calculation. What they could be e.g. due to a different pattern and impact by badgers is something to consider as part of the post development assessment. Again this just shows the weakness of th use of the metric which does not consider species issues.. The consensus of ecological professionals is the best approach as the metric can always only be a rough guide in my view.
- Number: 4 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:22:20  
The technical debate and disagreements between Aspect Ecology and Bioscan just prove one cannot solely relay on the metric which is not a finished product and does not consider all ecological issues in any case.
- Number: 5 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:25:18  
This is incorrect no such policy exists yet. The metric is an unfinished product it has various flaws and is not bein gused consistently by ecologists yet. I am sure (and so is the Wildlife Trust) that with the conditions and S106 I have recommended there will be no net loss and very likely a net gain if one considers all the species particularly enhancing the site for bats etc.. The development can pass the policy test there is no figure to pass.

local authorities<sup>2</sup>. At its highest, Aspect Ecology's own assessment shows that the proposed development falls far-short of this target and in fact delivers no meaningful net gain<sup>3</sup>.

- iii) There has been no error in the assessment by Bioscan of the condition of the hedgerows H1 and H2 – both are assigned a value of 'moderate' in the pre-development (0.58ha) assessment and 'good' in the post-development (0.35ha) assessment.
- iv) The inclusion by Aspect of hedgerows H3 to H6 as 'Native hedgerow' in the metric is patently incorrect and should be amended. These are ornamental hedgerows which have 0 (zero) biodiversity units. Inclusion of these as native hedgerows introduces a 0.338 unit bias that should be discounted. Correcting the overall output for this further exposes the claim of net gain as a fallacy.
- v) There is no native hedgerow planting proposed by the landscape strategy or shown on the ecological enhancement drawing, and thus the inclusion of 0.461km of native hedgerow creation in the Metric should be removed.

A further element of the Metric assessment undertaken by Aspect that requires more detailed scrutiny is the justification for their application of strategic multipliers.

#### *Strategic multipliers*

In their assessment, Aspect Ecology have assigned some habitats a 'strategic location' multiplier, the suggestion being, it is assumed, that these habitats are located in an area that has been formally identified as being strategically important for that habitat. The two 'woodland' habitats (i.e. hedgerows H1 and H2), are noted to be assigned the 'within area formally identified in local strategy' assessment. The suggested rationale for this is outlined at 2.8 of Aspects submission<sup>4</sup>, which states –

*"Hedgerows H1 and H2 are considered to qualify as Priority Habitat and the local BAP, as such these habitats are considered to be within an area formally identified in local strategy such that they are of high strategic significance."*

This appears to be a wilful misconception of the function and purpose of strategic multipliers within the Defra metric. The suggestion being made is that simply because the hedgerows meet the criterion for status as a national priority habitat that they are automatically strategically located. A priority hedgerow is a hedgerow that contains 80% or greater native species, a criterion met by most hedgerows in Britain. Conversely 'strategically located' is a function of the location of the hedgerow, for example as part of a wider network or connecting two designated sites. It is entirely possible, as is the case here, for a hedgerow to be a priority habitat but outside of a strategic location, or indeed in an ecologically isolated setting.

<sup>2</sup> See for example <https://www.cherwell.gov.uk/news/article/624/council-ramps-up-biodiversity-target>

<sup>3</sup> This is also demonstrably below the 10% currently required by several planning authorities and which is the amount likely to be required under the upcoming Environment Bill.

<sup>4</sup> Aspect Ecology ref: 1005487/012.let.CBC.ep, dated 10<sup>th</sup> August 2020. Technical Briefing Note TN10, dated 7<sup>th</sup> August 2020.

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- T** Number: 1 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:27:05  
Disagree strongly the development can secure long term biodiversity value at the location.
- 
- T** Number: 2 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:27:28  
More technical agruements - see above comments.
- 
- T** Number: 3 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:36:33  
Incorrect there will be much gap/reinforcement planting in several places to give an increase in native hedgerow and is depicted on the landscape strategy drawing.
- 
- T** Number: 4 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:49:07  
Disagree but again shows the arguments that can be generated by the imperfect draft Defra metric. In Gloucestershire priority habitats can certainly be seen to be strategically important particularly as the site is situated in a area identified as part of strategic green infrastructure by the Local Nature Partnership <https://www.gloucestershirenature.org.uk/green-infrastructure-framework> . Also CBC have signed up to the LNP's GI Pledge and so this gives added weight to the strategic importance of the hedgerow features being added to/strengthened.

If additional evidence of this was required, the Metric 2.0 user guide<sup>5</sup>, published by Natural England (extract included at Appendix 1) states -

*"5.30. The idea of strategic significance works at a landscape scale. It gives additional unit value to habitats that are located in preferred locations for biodiversity and other environmental objectives...Strategic significance utilises published local plans and objectives to identify local priorities for targeting biodiversity and nature improvement, such as Nature Recovery Areas, local biodiversity plans, National Character Area<sup>14</sup> objectives and green infrastructure strategies".*

The guide goes on to state –

*"In the absence of a locally or nationally relevant strategic documentation indicating areas of significance for biodiversity, the value of 1 should be used in pre and post development calculations".*

Aspect provide no evidence for the site being within an area formally identified as strategically important for hedgerows or woodland and a score of 1 (i.e. no multiplier) should therefore have been applied.

There is similarly no evidence provided by Aspect for the existing or proposed ponds being located within a strategically significant location.

Conversely, the comments by the Gloucestershire Wildlife Trust (GWT) (see Appendix 2) confirm that the grassland is in fact strategically located. GWT state *"The site lies within a gap in grassland ecological network connectivity"*. Is it therefore appropriate to assign to the neutral grassland on site a strategic significance of at least 1.1 (i.e. location ecologically desirable but not in local strategy).

*Metric outcome*

Having corrected the above errors, the metric assessment undertaken by Aspect should show a 4.21 loss of biodiversity units, equivalent to a 11.98% reduction (output included at Appendix 3). This is patently in conflict with national and local policy on the avoidance of net loss of biodiversity.

#### Published metric assessment

It is noted that both Aspect Ecology and the County Ecologist raise a query as to the benefit of the metric assessment because it is in the process of beta testing. This fact is highlighted in my original submission<sup>6</sup> and is not disputed. It is though noted in Aspects submission of 10<sup>th</sup> August<sup>7</sup> at 1.3 it states *"It is considered that the most appropriate metric to use for the site is the Defra Biodiversity Metric 2.0 Calculation Tool"*. Any suggestion then that this metric is not a recognised and acceptable assessment tool is incorrect. The Defra 2.0 metric is widely and increasingly used to guide planning decisions throughout England and to assess the performance of proposals against the framework of national and local policies that seek to avoid net biodiversity loss and deliver net gain, and is on course to be mandated for such use upon the passing of the Environment Bill into law.

<sup>5</sup> Ian Crosher, Susannah Gold, Max Heaver, Matt Heydon, Lauren Moore, Stephen Panks, Sarah Scott, Dave Stone & Nick White. 2019. *The Biodiversity Metric 2.0: auditing and accounting for biodiversity value. User guide* (Beta Version, July 2019). Natural England

<sup>6</sup> Bioscan letter ref: SW20/E1986/EPL1, dated 20<sup>th</sup> July 2020

<sup>7</sup> Aspect Ecology ref: 1005487/012.let.CBC.ep, dated 10<sup>th</sup> August 2020. Technical Briefing Note TN10, dated 7<sup>th</sup> August 2020

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- T** Number: 1 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:50:17  
Incorrect and although Aspect Ecology have provided no evidence I have of strategic importance - see above comment
- 
- T** Number: 2 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:53:46  
Content to accept this but it must also be the case for the hedgerows - see above comment. Again shows the issues with using the draft Defra metric.
- 
- T** Number: 3 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:56:56  
Cannot support the figure derived here and ignores various biodiversity issues. draft Defra metric is imperfect, only covers habitats and is not mandatory. There is no policy conflict and in any case I believe there would be a net biodiversity gain from allowing the development with the conditions and S106 in place as I have recommended.
- 
- T** Number: 4 Author: gkenniso Subject: Highlight Date: 11/09/2020 11:57:58  
Key word is 'guide' and a rough on eat that. See above comments.

Neither Aspect nor the County Ecologist have evidenced their assertion that use of the Defra 2.0 metric might give rise to error. One means of testing this might be through the application of an alternative published metric, such as those that preceded the general and widespread adoption of the more recent Defra 2.0 model. For the avoidance of doubt on this point, Bioscan have also, therefore, undertaken this exercise utilising the metric published by Warwickshire County Council<sup>8</sup> and which was employed as part of the 2019 appeal evidence.

The output from this exercise is attached at Appendix 4 and this shows a 7.33 loss of biodiversity, equivalent to -22.9%. This does not suggest an inconsistent result would be obtained by any other metric and again underlines that the proposals are patently in conflict with national and local policy on the avoidance of net loss of biodiversity.

### Conclusion

Having applied two established metrics to the proposed development, one of which is planned by Government to form the official and mandated tool for measuring biodiversity net gain in future planning decisions, it is clear that, by either measure, significant and demonstrable net loss of biodiversity would occur on this site. Aspect seek to rebut such conclusions by little more than bland repetition of a wholly subjective and unevidenced position shown to be untenable on the facts. Their case is not to engage with the facts but to sow uncertainty by advising that allowances be made for differences in subjective expert opinion and 'gut feeling' and seeking to discredit the application of what are now well-established quantitative methods.

There are of course cases where subjective opinion and quantitative metric outputs will be at odds with each other, and Bioscan are in the vanguard of advocating that care should be used when applying metric-based systems. In this case, however, the veracity of Aspect's competing assessment has to be viewed in the context of the many errors and inconsistencies that have been exposed in their assessments since the commencement of the planning debates over this site, including before the current application. I can confirm that the metric outputs discussed above align with the expert professional subjective opinion of not just myself, but of other highly experienced ecologists within Bioscan, and those views have consistently been found to be on the right side of the facts. Aspect's efforts to disregard any assessment technique that does not give them the answer they seek falls short of the requirements for rigorous and robust assessment of the impact of development proposals on biodiversity - requirements that are not only required by industry best practice in general but that form the thrust of national planning policy demands. Any suggestion that application of established metrics is not valid for the purposes of assessment of compliance with biodiversity net gain policies runs flat contrary to the direction of travel of government and local planning policy and in that context alone should be rejected if a legally safe planning decision is to be made.

### **KWS assessment**

I have reviewed the submission by Aspect Ecology (dated 17<sup>th</sup> August 2020) in which they attempt to critique the basis on which the site has been put forward for designation as a Key Wildlife Site (now called Local

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<sup>8</sup> <https://www.warwickshire.gov.uk/biodiversityoffsetting>

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- T** Number: 1 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:06:53  
No as there are issues with the metric and it is implicitly designed as a Habitat only tool for professional ecologists to use. It does not include important species population matters for example and there is a lot of latitude in assessment of hedgerows and woodlands/scrub as the dialogue between Aspect Ecology and Bioscan proves. The metric is only a rough guide and does not cover many biodiversity aspects it should not replace the considered views of a professional ecologist and the consensus is that there would not be a net loss of biodiversity from allowing the development.
- 
- T** Number: 2 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:08:40  
This argument can be applied to Bioscan too in disregarding the consensus of ecological representations including Natural England, Gloucestershire Wildlife Trust and my own views. The proposals are clearly compliant with current national and local policy contrary to the assertion here.
- 
- T** Number: 3 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:09:06  
As above comment

Wildlife Sites LWS). I am also now in receipt of the submission from GWT dated 1<sup>st</sup> September 2020 which confirms the site was formally designated a LWS at a meeting of the selection panel on 1<sup>st</sup> September 2020. There can be no further question that the site does meet the criteria for this status, and the attribution of LWS status also puts beyond any doubt that Aspect's assertion that the grassland is of no more than 'site' value is wrong.

The designation of the site as a LWS is welcome confirmation by an independent panel of third parties of what the facts on the ground have consistently pointed towards throughout my involvement in this site, and brings into play an additional raft of policy considerations that are failed to be met by the current proposals. In the event that Aspect continue to dispute the award of LWS status, I make the following points on their claims that the appropriate criteria were exceeded:

#### *Minimum species threshold*

To meet one of the criteria for KWS designation, the grassland needs to contain at least 20 species from those listed in the KWS handbook as being representative of semi-natural grassland. To date 22 species have been recorded. In their submission of 17<sup>th</sup> August 2020, Aspect attempt to discount the inclusion of four of these species in their letter to Dr Juliet Hynes; bluebell, barren strawberry, primrose and common dog violet. The basis for this is that, in their option, these are "*likely closely associated with the hedgerows and marginal woody vegetation...Accordingly, these should be discounted from the list such that number of relevant KWS grassland species*". Such a statement is erroneous, as Aspect would know if they had spent their time onsite analysing the grasslands in the correct manner, and the very basis for it flawed.

In the first instance, the KWS handbook, published by the GWT, specifically includes these four species in the list of those representative of a semi-natural grassland.

Secondly, and in the event further evidence of the grassland (as well as woodland) affiliation of these species was needed, I need do no more than pick one of a number of sources that confirm this association. The Natural England (formerly English Nature) research report published on the assessment of the condition of lowland grassland Sites of Special Scientific Interest<sup>9</sup> also lists all but barren strawberry as being indicators of higher quality mesotrophic grassland (extract provided at Appendix 5).

There can be no argument that these species can and should be included in the list of indicator species that confirm that the site meets, indeed, exceeds the threshold for KWS-level interest. Any attempt to discount them artificially and erroneously skews the assessment. The bald fact is that Aspect failed to record these species yet now attempt to present a case for them to somehow be set aside as not valid as grassland species. This cherry picking of the facts and data is indefensible and should be rejected.

#### *Other matters*

In addition to several other factual inaccuracies in their correspondence to the GWT regarding the LWS assessment, Aspect also assert that "*there is no realistic mechanism*", to secure the future and management of the site other than through development. I do not agree with this position. Aspect have not identified any

<sup>9</sup> Robertson, H & Jefferson, R (2000) *Monitoring the condition of lowland grassland SSSIs* England Nature Research Reports No 315 Part 2.

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T Number: 1 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:12:15

The GWT letter actually says the site has meet the LWS criteria "on the grounds of Value for Learning, being a good selection of habitats and species exceptionally well-placed to offer educational opportunities by its proximity to a school." There is no mention of qualifying purely on the ecological value of the grassland alone.

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T Number: 2 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:13:16

Even with LWS status as I have already advised the proposals are acceptable and compliant with local/national policy.

credible risk to the continued management of the grassland in the absence of development. The land has been in its current form since the early 1800s and there is no record of it having ever been subject to agricultural improvement or chemical treatment. LiDAR imagery also shows relic ridge and furrow through the meadow supporting the case that it has also never been mechanically cultivated. Moreover, and most significantly of all, CKF are fully committed to this site, seeking to secure it as a resource for residents. Crucially, they have ample capability to undertake any necessary targeted management.

**Comments by Gary Kennison**

Much of the content of the correspondence submitted by the county ecology officer, Gary Kennison, takes a lead from the reports submitted by Aspect Ecology and can therefore be viewed in tandem with the responses above. It is, though, unclear why Mr Kennison, even in his most recent submission disagrees with GWT in respect of the site meeting the criteria for designation as a KWS. He appears to have decided this from a single site visit of unknown duration and thoroughness at a somewhat less than optimal time of year (August). This stands against the clear case on the facts, as confirmed by GWT and their decision to formally designate the site, that the site has significant ecological value and that the impact of the development should be measured against this.

**Conclusion**

Throughout this and previous applications, Bioscan has acted on behalf of CKF to ensure that the ecological interest of the site is properly and accurately recorded. The process has consistently exposed factual errors and inaccuracies in the work undertaken by the applicant's ecologists, Aspect Ecology. The fund of knowledge now collected by Bioscan (and which ought to have been properly documented by Aspect) has been sufficient to lead to the formal designation of the site as a Local Wildlife Site. Yet, Aspect Ecology seek to undermine this fact by discounting relevant facts on the basis of flawed assumptions.

What is placed beyond dispute by the cumulative evidence is that the current proposal would result in the significant and demonstrable net loss of biodiversity on the site. It would accordingly fail the relevant tests of local and national planning policy and should be rejected.

Regards

FOR AND ON BEHALF OF BIOSCAN (UK) LTD



Samuel Watson MCIEEM  
Principal Ecologist

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Number: 1 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:21:06

One can have a view of a grassland from a single visit. A botanist can determine whether a high quality grassland is present or not from a single visit, it is not necessary to see every species that might occur to categorise a vegetation community type. Species abundance and distribution is important too not just mere presence and species counts.  
See comment above GWT do not mention qualification as a LWS by grassland quality alone. The GWT letter received focuses on educational value of a variety of habitat present and potential for enhancement which is possible through allowing the development.

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Number: 2 Author: gkenniso Subject: Highlight Date: 11/09/2020 12:21:50

Strongly disagree for various reasons above.

Photo 1



**Appendix 1**

Natural England Joint Publication JP029

# The Biodiversity Metric 2.0

auditing and accounting for biodiversity

## USER GUIDE

Beta Version

First published 29<sup>th</sup> July 2019

[www.gov.uk/natural-england](http://www.gov.uk/natural-england)

NATURAL  
ENGLAND

### The spatial component

5.29. In biodiversity metric 2.0 there are two core spatial components. First, the **strategic significance** of a place for biodiversity, its geography. Second, ecological **connectivity**, the relationship of a habitat in a defined place to its immediate surroundings in respect of biological and ecosystem flows. While these concepts are not completely independent of each other they do represent different qualities of a habitat.

#### Strategic significance

- 5.30. The idea of strategic significance works at a landscape scale. It gives additional unit value to habitats that are located in preferred locations for biodiversity and other environmental objectives. Ideally these aspirations will have been summarised in a local strategic planning document which articulates where biodiversity is of high priority and the places where it is less so. Strategic significance utilises published local plans and objectives to identify local priorities for targeting biodiversity and nature improvement, such as Nature Recovery Areas, local biodiversity plans, National Character Area<sup>14</sup> objectives and green infrastructure strategies. Table 5-5 shows the multiplier scores for both impact and compensation sites based on its place in a strategic plan.
- 5.31. In the absence of a locally or nationally relevant strategic documentation indicating areas of significance for biodiversity, the value of 1 should be used in pre and post development calculations. Use of a score of 1 does not penalise a proposal.

TABLE 5-5: Strategic significance categories and scores

Strategic Significance categories			
Category	Score	Point applied to calculation	
		Pre-impact	Post-impact
<b>High strategic significance</b> High potential & within area formally identified in local policy	1.15	Yes	Yes
<b>Medium strategic significance</b> Good potential but not in area defined in local policy	1.1	Yes	Yes
<b>Low Strategic Significance</b> Low potential and not in area defined in local policy	1	Yes	Yes

#### Connectivity

5.32. The focus of connectivity in biodiversity metric 2.0 is the relationship of a particular habitat patch to other surrounding **similar** or **related** semi-natural habitats. These help facilitate flows of species and ecosystem services increases habitat resilience.

<sup>14</sup> For more details of National Character Areas see:  
<https://www.gov.uk/government/publications/national-character-area-profiles-data-for-local-decision-making/national-character-area-profiles>

Appendix 2

**Gloucestershire**  
Wildlife Trust



Gloucestershire Wildlife Trust  
Robinswood Hill Country Park  
Reservoir Road  
Gloucester  
GL4 6SX

By email to:  
Emma Pickernell, Cheltenham BC

Gary Kennison, Gloucestershire CC

Alistair Baxter, Aspect Ecology

[info@gloucestershirowildlifetrust.co.uk](mailto:info@gloucestershirowildlifetrust.co.uk)

[www.gloucestershirowildlifetrust.co.uk](http://www.gloucestershirowildlifetrust.co.uk)

Telephone: 01452 383333

Registered charity number: 232580

Registered in England number: 708575

07 Aug 2020

**Proposed Local Wildlife Site at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT)**

Dear Sir/Madam

Regarding the proposal for Local Wildlife Site status on land at St Edwards Prep School, Charlton Kings (Site under planning application 20/00683/OUT).

In order to achieve the goal of a balanced and useful Local Sites system, the Gloucestershire Wildlife Sites Partnership uses minimum habitat and species thresholds that fit the unique biodiversity of the county into a wider context, and a set of general criteria based on the DEFRA-recommended version of the Ratcliffe criteria.

The proposed site does meet the criteria set out in the Key Wildlife Sites (now referred to as Local Wildlife Sites [LWS]) handbook (2015), being greater than 0.5 ha (site is approximately 3.5 ha), confirmed as MG1 grassland habitat by NVC survey carried out by Aspect Ecology in July 2019 and Aug 2020 and by Bioscan in July 2019 and recording, through combination of all of the above surveys 22 species from the grassland list. However, MG1 can cover a wide range of grassland condition, from very high grass cover and few herbs through to much lower grass density and significant herb cover. As it stands at the moment, the proposed site is of borderline LWS quality and the LWS process requires it to be examined by the LWS selection panel to determine whether it should be adopted as a LWS or not. The panel may be unable to convene before the planning application goes to committee.



**Gloucestershire**  
Wildlife Trust



The site lies within a gap in grassland ecological network connectivity. Enhancement to grassland habitat within this area would benefit the ecological network and with appropriate management the quality of the grassland on this site could be enhanced within a relatively short time. Irrespective of the LWS selection panel decision, it is Gloucestershire Wildlife Trusts view that any development on this site should provide a strong commitment to biodiversity net gain and a strong management and maintenance plan for both the grassland and veteran tree features on the site.

Kind regards

Dr Juliet Hynes

Gloucestershire Nature Recovery Network Coordinator



Appendix 3

Headline result

<b>On-site baseline</b>	Habitat units	35.15
	Hedgerow units	0.00
	River units	0.00
<b>On-site post-intervention</b> <small>(including habitat retention, creation, enhancement &amp; diversification)</small>	Habitat units	31.26
	Hedgerow units	0.00
	River units	0.00
<b>Off-site baseline</b>	Habitat units	0.00
	Hedgerow units	0.00
	River units	0.00
<b>Off-site post-intervention</b> <small>(including habitat retention, creation, enhancement &amp; diversification)</small>	Habitat units	0.00
	Hedgerow units	0.00
	River units	0.00
<b>Total net unit change</b> <small>(including all on-site &amp; off-site habitat retention/creation)</small>	Habitat units	-3.89
	Hedgerow units	0.00
	River units	0.00
<b>Total net % change</b> <small>(including all on-site &amp; off-site habitat creation + retained habitats)</small>	Habitat units	-11.07%
	Hedgerow units	0.00%
	River units	0.00%

Appendix 3 -- Metrix 2.0 output

A-1 Site habitat baseline

Habitats and areas			Habitat distinctiveness	Habitat condition	Ecological connectivity	Strategic significance	Ecological baseline	Retention category biodiversity value						
Broad Habitat	Habitat type	Area (ha)	Distinctiveness	Condition	Ecological connectivity	Strategic significance	Total habitat units	Area retained	Area enhanced	Baseline units retained	Baseline units enhanced	Baseline units succession	Area lost	Units lost
Grassland	Grassland - Other neutral grassland	3.3967	Medium	Moderate	Low	Location ecologically desirable but not in local strategy	29.89		1.06	0.00	9.33	0.00	2.34	20.56
Heathland and shrub	Heathland and shrub - Mixed scrub	0.15	Medium	Poor	Low	Area/compensation not in local strategy/ no local strategy	0.60	0.09		0.36	0.00	0.00	0.06	0.24
Woodland and forest	Woodland and forest - Other woodland; broadleaved	0.34	Medium	Moderate	Low	Area/compensation not in local strategy/ no local strategy	2.72		0.26	0.00	2.68	0.00	0.08	0.64
Woodland and forest	Woodland and forest - Other woodland; broadleaved	0.16	Medium	Moderate	Low	Area/compensation not in local strategy/ no local strategy	1.28		0.11	0.00	0.88	0.00	0.05	0.40
Lakes	Lakes - Ponds (Non- Priority Habitat)	0.003	High	Poor	Medium	Area/compensation not in local strategy/ no local strategy	0.02			0.00	0.00	0.00	0.00	0.02
Heathland and shrub	Heathland and shrub - Mixed scrub	0.08	Medium	Moderate	Low	Area/compensation not in local strategy/ no local strategy	0.64			0.00	0.00	0.00	0.08	0.64
<b>Total site area ha</b>		<b>4.13</b>					<b>35.15</b>	<b>0.09</b>	<b>1.43</b>	<b>0.36</b>	<b>12.29</b>	<b>0.00</b>	<b>2.61</b>	<b>22.50</b>

A-2 Site habitat creation

Proposed habitat	Area (hectares)	Distinctiveness	Condition	Ecological connectivity	Strategic significance	Temporal multiplier	Difficulty multipliers	Habitat units delivered
				Ecological connectivity	Strategic significance	Time to target condition/years	Difficulty of creation category	
Heathland and shrub - Mixed scrub	0.06	Medium	Good	Low	Area/compensation not in local strategy/ no local strategy	7	Low	0.56
Urban - Woodland	0.41	Medium	Good	Low	Area/compensation not in local strategy/ no local strategy	32+	Low	1.57
Urban - Suburban/ mosaic of developed/ natural surface	1.28	Low	Good	Low	Area/compensation not in local strategy/ no local strategy	5	Low	6.43
Grassland - Other neutral grassland	0.85	Medium	Good	Low	Location ecologically desirable but not in local strategy	15	Low	6.58
Lakes - Ponds (Non-Priority Habitat)	0.0097	High	Good	Medium	Area/compensation not in local strategy/ no local strategy	5	Low	0.16
<b>Totals</b>	<b>2.61</b>							<b>15.30</b>

A-3 - Site habitat enhancement

Baseline habitats	Change in distinctiveness and condition			Area (hectares)	Distinctiveness	Condition	Ecological connectivity	Strategic significance	Temporal multiplier	Difficulty multipliers	Habitat units delivered
Baseline habitat	Proposed habitat (Pre-populated but can be overridden)	Distinctiveness change	Condition change				Ecological connectivity score	Strategic significance			
Grassland - Other neutral grassland	Grassland - Other neutral grassland	Medium - Medium	Moderate - Good	1.05	Medium	Good	Low	Location ecologically desirable but not in local strategy	15	Low	12.06
Woodland and forest - Other woodland; broadleaved	Woodland and forest - Other woodland; broadleaved	Medium - Medium	Moderate - Good	0.26	Medium	Good	Low	Area/compensation not in local strategy/ no local strategy	15	Medium	2.49
Woodland and forest - Other woodland; broadleaved	Woodland and forest - Other woodland; broadleaved	Medium - Medium	Moderate - Good	0.11	Medium	Good	Low	Area/compensation not in local strategy/ no local strategy	15	Medium	1.05
			<b>Total area</b>	<b>1.43</b>						<b>Enhancement total</b>	<b>15.60</b>

Appendix 4

Appendix 4 – Warwickshire Metric output

Pre-development assessment

Existing habitats on site Please enter <u>all</u> habitats within the site boundary			Habitat distinctiveness		Habitat condition		Habitats to be <u>retained</u> with no change within development		Habitats to be retained and <u>enhanced</u> within development		Habitats to be <u>lost</u> within development	
code	Phase 1 habitat description	Habitat area (ha)	Distinctiveness	Score	Condition	Score	Area (ha)	Existing value	Area (ha)	Existing value	Area (ha)	Existing value
Direct impacts and retained habitats			A	B	C	D	E	F	G	H		
			A	B	C	D	E	F	G	H	ΣD + ΣF + ΣH	
B22	Grassland: Semi-improved neutral grassland	3.39	Medium	4	Moderate	2			1.06	8.48	2.33	18.64
A131	Woodland: Mixed semi-natural woodland	0.34	Medium	4	Moderate	2			0.26	2.08	0.08	0.64
A131	Woodland: Mixed semi-natural woodland	0.16	Medium	4	Moderate	2			0.11	0.88	0.05	0.40
A22	Woodland: Scattered scrub	0.23	Medium	4	Poor	1	0.09	0.36			0.14	0.56
<b>Total</b>		<b>4.12</b>				<b>Total</b>	<b>0.09</b>	<b>0.36</b>	<b>1.43</b>	<b>11.44</b>	<b>2.60</b>	<b>20.24</b>
											<b>ΣD + ΣF + ΣH</b>	<b>32.04</b>
											Site habitat biodiversity value	32.04

Post-development assessment

Proposed habitats on site (Centre re-design)		Target habitat distribution		Target habitat condition		Type of target condition	Difficulty of creation / restoration		Habitat diversity value		
code	Name / habitat description	Area (ha)	Difficulty	Score	Condition		Score	Difficulty		Score	
<b>Habitat Creation</b>											
		<b>H</b>	<b>C</b>	<b>F</b>					<b>H x C x F / 100</b>		
A01	Woodland (Grass)	0.20	Medium	3	Good	1	1 year	1.1	Low	1	3.40
A112	Woodland (Shrubland)	0.20	Medium	4	Good	5	10 years	1.4	Medium	1.5	3.28
A02	Grassland (Improved)	0.20	Low	2	Good	3	2 years	0.5	Low	1	0.20
A03	Grassland (Natural)	0.20	Medium	4	Good	3	5 years	1.2	Medium	1.5	3.07
<b>Total</b>		<b>0.80</b>									
<b>Habitat Enhancement</b>											
						<b>Existing value of = F</b>					
B02	Grassland (Improved)	0.20	Medium	4	Good	1	1 year	1.1	Low	1	3.88
A131	Woodland (Shrubland)	0.20	Medium	4	Good	3	10 years	1.4	Low	1	6.74
A132	Woodland (Grass)	0.20	Medium	4	Good	3	10 years	1.4	Low	1	6.81
<b>Total</b>		<b>0.40</b>									
Trading down correction value											
<b>Habitat Mitigation Score (HMS)</b>											

Habitat Diversity Impact Score	7.13
Percentage of biodiversity impact loss	36.22

	Loss	Gain	Impact
Woodland Habitat	1.60	3.88	2.28
Grassland Habitat	18.64	9.52	9.12
Wetland Habitat	0.00	0.00	0.00
Other Habitat (including Built Environment)	0.00	6.98	6.98
<b>Total</b>	<b>20.24</b>	<b>20.38</b>	<b>0.14</b>
		Trading down	7.67
			7.33

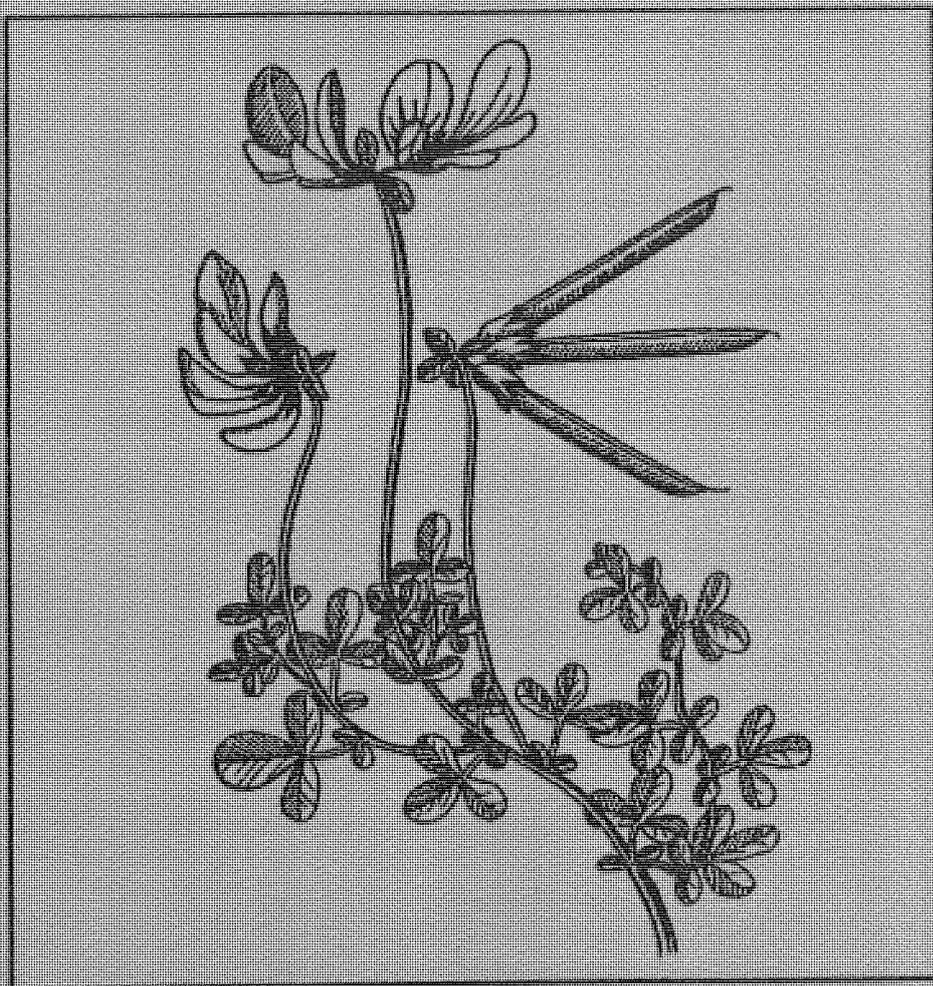
Appendix 5



# Monitoring the condition of lowland grassland SSSIs

Part 2 - A test of the rapid assessment approach

No. 315 - English Nature Research Reports



working today  
for nature tomorrow





Species name	Mesotrophic Indicator score
<i>subnodulosus</i>	1
<i>arvensis</i>	1
<i>macrantha</i>	2
<i>montanus</i>	1
<i>nissolia</i>	4
<i>pratensis</i>	1
<i>lon hispidus</i>	2
<i>lon saxatilis</i>	2
<i>themum vulgare</i>	1
<i>catharticum</i>	1
<i>ovata</i>	2
<i>orniculatus</i>	1
<i>enuis</i>	1
<i>liginosus</i>	1
<i>campestris</i>	1
<i>multiflora</i>	1
<i>flos-cuculi</i>	1
<i>chia nummularia</i>	1
<i>thamanticum</i>	4
<i>caerulea</i>	1
<i>is discolor</i>	1
<i>is secunda</i>	1
<i>us pseudonarcissus</i>	1
<i>he fistulosa</i>	1
<i>he pimpinelloides</i>	8
<i>he silaifolia</i>	8
<i>repens</i>	1
<i>spinosa</i>	2
<i>lossum vulgatum</i>	2
<i>mascula</i>	2
<i>morio</i>	4
<i>acetosella</i>	1
<i>ucillia viscosa</i>	4
<i>sia palustris</i>	2
<i>laris palustris</i>	1
<i>la officinarum</i>	1
<i>vella saxifraga</i>	2
<i>go media</i>	1
<i>thera bifolia</i>	2
<i>thera chlorantha</i>	2
<i>la serpyllifolia</i>	2
<i>la vulgaris</i>	2
<i>num bistorta</i>	8
<i>num viviparum</i>	2
<i>illa anglica</i>	1
<i>illa erecta</i>	1
<i>illa palustris</i>	2

Species name	Mesotrophic Indicator score
<i>Primula farinosa</i>	2
<i>Primula veris</i>	2
<i>Primula veris x P. vulgaris</i>	2
<i>Primula vulgaris</i>	2
<i>Pulicaria dysenterica</i>	1
<i>Ranunculus auricomus</i>	2
<i>Ranunculus bulbosus</i>	1
<i>Ranunculus ficaria</i>	1
<i>Ranunculus flammula</i>	1
<i>Rhinanthus minor</i>	1
<i>Sagina nodosa</i>	1
<i>Sanguisorba minor</i>	1
<i>Sanguisorba officinalis</i>	8
<i>Saxifraga granulata</i>	2
<i>Senecio aquaticus</i>	1
<i>Senecio erucifolius</i>	1
<i>Serratula tinctoria</i>	2
<i>Silaum silaus</i>	8
<i>Stachys officinalis</i>	2
<i>Stellaria graminea</i>	1
<i>Stellaria palustris</i>	1
<i>Succisa pratensis</i>	2
<i>Thalictrum flavum</i>	2
<i>Thymus polytrichus</i>	2
<i>Trifolium fragiferum</i>	8
<i>Trifolium medium</i>	1
<i>Trifolium ochroleucon</i>	8
<i>Triglochin palustris</i>	4
<i>Trisetum flavescens</i>	1
<i>Trollius europaeus</i>	4
<i>Valeriana dioica</i>	4
<i>Valeriana officinalis</i>	1
<i>Veronica officinalis</i>	1
<i>Veronica scutellata</i>	2
<i>Vicia orobus</i>	4
<i>Vicia tenuissima</i>	1
<i>Vicia tetrasperma</i>	1
<i>Viola canina</i>	2
<i>Viola hirta</i>	2
<i>Viola riviniana</i>	2

Page: 25

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Number: 1      Author: sam      Subject: Rectangle      Date: 10/09/2020 16:50:37

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Number: 2      Author: sam      Subject: Rectangle      Date: 10/09/2020 16:52:18



14 September 2020

Councillor David Willingham  
c/o Municipal Offices  
The Promenade  
Cheltenham  
Gloucestershire  
GL50 9SA

Dear Councillor Willingham

### OAKHURST RISE – A SITE ALLOCATED IN YOUR LOCAL PLAN

Later this week your Planning Committee will be asked to consider our application for 43 new homes at Land off Oakhurst Rise, Cheltenham. Oakhurst Rise is a site allocated for development in the Cheltenham Local Plan which you adopted on 20 July. The principle of development on this site is clearly and firmly established. We have worked closely with your officers to create a scheme that comprehensively addresses the site-specific requirements set out in the Local Plan and which considers the issues raised by the Inspector when considering a larger scale proposal.

You may be aware that we the applicant, facilitated an inspection of the site by the Gloucestershire Wildlife Trust (GWT), who subsequently designated the site as a Local Wildlife Site on the grounds of value for learning. We welcome this swift decision and the certainty it provides. The Trust clearly concludes that the proposed development of this site affords an important opportunity to both enhance and protect the ecology of this site in perpetuity and the County Ecologist concurs.

The status of the site as a Local Wildlife Site is now settled and Policy SD9 of the Joint Core Strategy is engaged. We are firmly of the view that the relevant policy criteria are satisfied by this scheme and this is supported by the County Ecologist. A Framework Land Management Plan has been prepared and submitted to GWT, which has commented '*Gloucestershire Wildlife Trust confirms that the prescriptions within the revised draft of the FMP should result in securing and enhancing the biodiversity interest of the retained areas of the Local Wildlife Site*'. It is in the interests of the whole of Cheltenham to bring forward this allocated site with a scheme that satisfies the various planning requirements.

In addition to this backing, there are strong reasons to actively support this scheme.

- It will provide a cross-section of new market dwellings.
- It will deliver 18 affordable homes in an area that desperately needs them but will not get them in this plan period without our scheme.
- By carefully siting new homes to the west of the site and creating new landscape features, we consider the scheme satisfactorily meets all the criteria attached to Policy HD4. Your Senior Conservation and Heritage Officer has no objections to the scheme which has been designed in consultation with him.
- We are protecting the key biodiversity assets and mature trees. We have both a long-term plan for management of the retained trees and importantly we have agreed a Framework Management Plan with GWT for the retained grassland. Our approach is fully supported by CBC's Senior Trees Officer and backed by the County Ecologist. Our proposals, which include extensive new planting, represent an overall biodiversity gain.
- The development will lower the risk of flooding in vulnerable areas of the town – our attached infographic clearly explains how.
- Gloucestershire County Highways has no objection to our scheme and nor have they for previous larger applications on this site
- It is fully supported by your social housing provider Cheltenham Borough Homes alongside other registered providers.
- If planning permission is granted it is ready to deliver new homes straight away

WILLIAM MORRISON

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(CHELTENHAM) LTD

Since our previous application, the urgent need for new homes has only intensified. Cheltenham does not have a five-year land supply and there is a huge shortfall of affordable homes. Our policy compliant proposals ought to be part of the solution to this challenge.

Oakhurst Rise has clearly been identified by the Borough Council as an appropriate location for development. We believe this clear policy statement plus the significant changes we have made to the scheme warrant support at Committee.

We are strongly urging the Committee to support these proposals. In the meantime if you have any questions please, do not hesitate to contact us on [info@williammorrison.com](mailto:info@williammorrison.com).

Yours sincerely

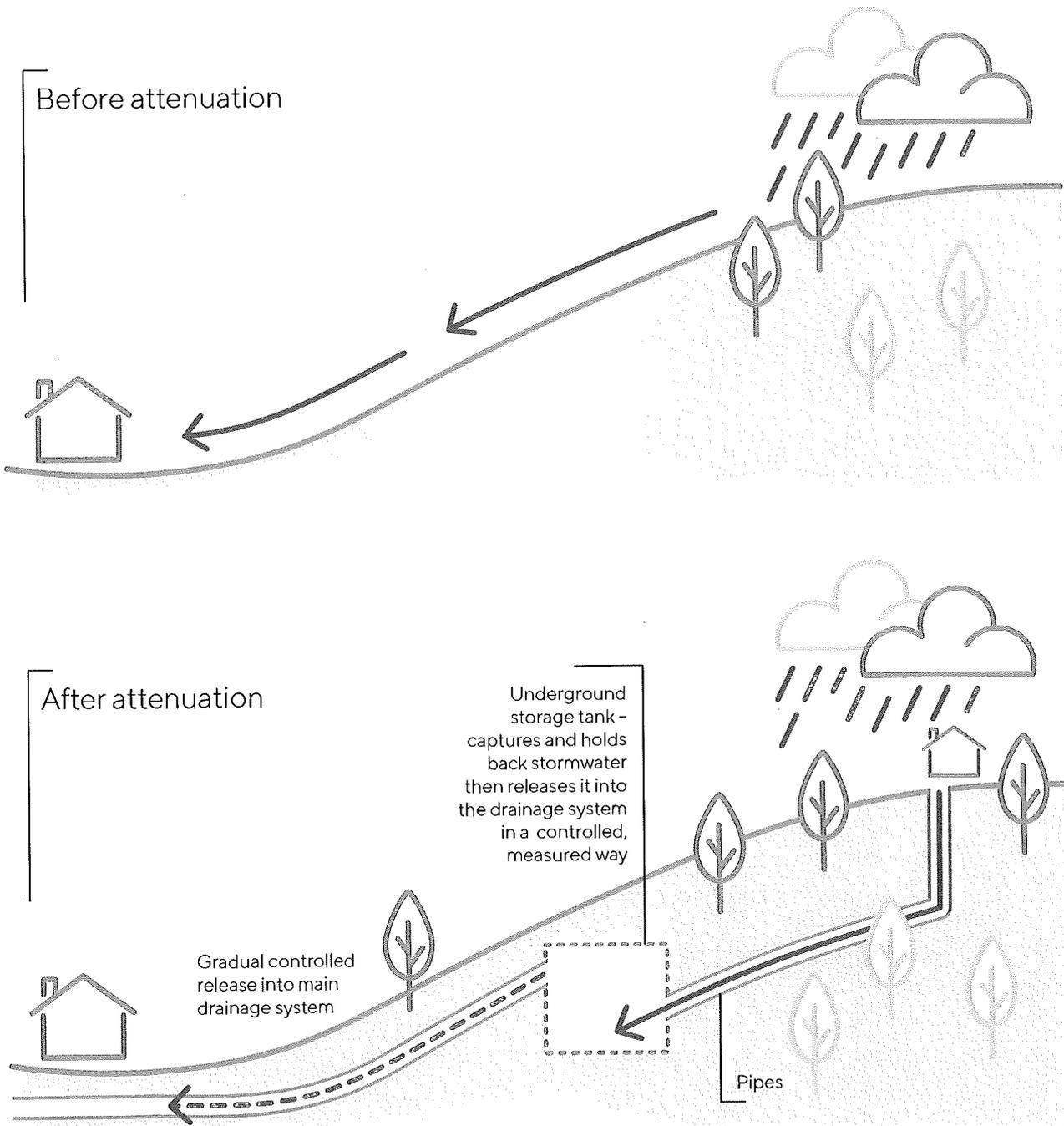
Directors of William Morrison (Cheltenham Ltd)

# Oakhurst Rise - Flood risk betterment

## Helping to manage flood risk in Cheltenham

- The Oakhurst Rise development will lower the risk of flooding in vulnerable areas of the town
- At the moment water runs freely off this site into the Cheltenham drainage system
- This runoff is set to increase by up to 40 per cent over the coming years as a result of climate change
- Our attenuation system will reduce flood risk to lower lying areas of Cheltenham by:
  - The holding back of runoff water from the hill
  - Its storage in attenuation tanks
  - Its gradual controlled release

In simple terms, Oakhurst Rise is a positive step in managing flood risk in Cheltenham.





## ⑨ letter from CKF Page 101 to Members.

20/00683/OUT

This application was submitted during lockdown, following a failure to appeal the rejection of a previous application in October 2019. In June 2020, the site was identified as meeting the qualifying criteria for Local Wildlife Site (LWS) Status. The Cheltenham Plan was adopted with site specific (HD4) policies in July. And Gloucestershire Wildlife Trust (GWT) designated the application site as an LWS on 1 September 2020.

The LWS baseline data of May 2020 was not presented at the appeal, did not feature in Local Plan consultations, nor was it a design consideration for this outline application.

While LWS status does not preclude development, it clearly influences the balance of "sustainable" development.

The Officer's Report (OR) at para 7.6 summarises harms and benefits of 20/00683/OUT based on appeal findings for 18/02171/OUT. However, the appeal inspector was presented with a greater amount of social housing, ruled prior to HD4 adoption, and did not have to consider the LWS status of the site or the new species data for the grassland under threat.

**In determining this new application, councillors are asked to consider whether the obligation to review and protect assets of particular importance (uniquely, a local wildlife site, a Grade II\* heritage asset and a Grade II asset) invokes para 11di of the NPPF.**

The committee will wish to take a view on the soundness of housing supply data, following a national lockdown, not least because this is an outline application and the draft planning conditions alone mitigate against the prospect of timely delivery.

**Policy HD4 requires "A minimum of 25 dwellings, subject to master planning"**

The application is **72% above a policy compliant minimum of 25 units**. The additional harm to biodiversity and heritage, and pressure on overstretched infrastructure, is **discretionary**.

The absence of a 'master plan' results in a raft of contradictions within the application over the future use of the site, access to the land and land management responsibilities, with a proposal for S106 funds and council time to be assigned over the next decade, managing the ecology of a site that is leased to a private school and inaccessible to taxpayers.<sup>1</sup>

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<sup>1</sup> The applicants are selling the land on receipt of planning permission. The officer report (OR) at 6.11.13 states that S106 payments will be used to maintain the site and a management company will be set up for that purpose; other officers assume residents will pay the "not cheap" bill. The design statement states "the site enables a significant amount of open green space to be available to the residents" yet there is zero residential access to protect the ecology of the remaining grassland, available to private school students under lease. The ecological, residential and educational uses of the land are in conflict without a master plan, to the detriment of all.

**National and local policy requires protection of biodiversity assets; policy SD9 requires improved community access (to biodiversity assets).** This application guarantees the loss of circa 30% of an important hedgerow, 57% of strategically important grassland, 2 mature trees, a spring fed pond and a badger sett. What is promised as replacement is inadequate and unenforceable<sup>2</sup>. While the site is currently in charitable ownership with considerable (managed) community access, in future, the meadow will be fenced off for exclusive use by the private school under commercial arrangements.

**Policy HD4 requires safe and convenient pedestrian and cycle links.** The access is described by the appeal inspector as ‘tortuous’; there is no cycleway provision in the application. Oakhurst Rise (14% gradient) is at the upper limits of e-bike performance.

Gloucestershire’s strategic plan on cycling offers no upgrade to CK cycling routes before 2031. The London Road is a category 4 route suitable for experienced cyclists only. At the last planning committee Highways commented that, contrary to the Highway Code, cyclists on Oakhurst Rise should rely on motorists flashing their headlights, as it was too narrow for an inbound HGV and an outbound cycle to navigate the hill simultaneously.

For information when considering **Public Sector Equalities Duty**, the site cannot be accessed safely by wheelchair and will be shut off completely in bad weather, as Oakhurst Rise is documented to be impassable after heavy frost or snowfall.

**Policy HD4 requires protection of mature trees, in addition to national policy protection for ancient and veteran trees.** The appeal inspector stated “It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have **not** been identified as such in the assessment submitted by the arboricultural consultants to the Appellants...”.

The committee is now asked to accept that the inspectors concerns are “largely overcome” (6.4.11), despite a strengthening of policy under HD4, and that the loss of mature trees is ‘regrettable (7.4)’ rather than a policy failure that is explicitly at odds with the direction from the local plan inspector in her final report (“I have made a minor change to the modified policy HD4 to **require the protection of mature trees**”).

**Policy HD4 requires a layout and form of development that respects the character, significance and setting of heritage assets** that may be affected by the development

Historic England [HE], a statutory consultee, are also the national technical authority on heritage harm; they continue to object in detail, supported by:

- The appeal inspector’s comments, following a full day of heritage evidence.

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<sup>2</sup> The county ecologist and GWT (para 6.5.25) requested a legal covenant to protect the grassland but conclude it is not possible. It is unclear what enforcement action or council priority would be assigned to something as routine as grass cutting regimes.

- A total dependence on screening. HE standing advice says screens should be a feature of last resort to reduce harm; the tree officer notes it will be decades before the trees reach maturity, with considerable risk from clay soil and from resident deer (he also notes residents will not tolerate large trees).
- CBC's evidence at appeal, that screening would **not** mitigate harm to heritage assets.

Given the OR admits there is real harm and HE's authoritative position, CKF encourages councillors to **take their own view on whether this harm, to which they must attach significant weight, is acceptable**

**Finally, we contend there is significant biodiversity harm from this application (6.5.28).**

The case at appeal was based on 14 of 20 grassland species having been identified as present in the meadow. Even then, the inspector stated "the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree".

Since submission of this new application, the grassland species count has been confirmed to exceed the LWS qualifying criteria (22 out of 20 species present). Legally protected wildflower species have been photographed in the grassland to be lost, in contravention of **policy SD9 provisions for nationally protected species to be safeguarded in accordance with the law**. GWT have given the site LWS designation.

**Badgers** are highlighted as being of borough interest, but despite focus in the local plan, this application chooses not to avoid the main sett, by developing the site above 25 units.

Ecology input to the site design (from Aspect) was as follows: "Features of ecological importance include hedgerows and the mature/veteran trees, which are of at least local level value... The remaining habitats within the site are **not** considered to form important ecological features and their loss to the proposals is of minor significance." The design statement says the site is "unkempt grass and a few trees".

In the last few weeks acknowledgement of ecological value of this site has changed beyond all recognition, but without any obvious impact on the design or the harms being acknowledged. Aspect's input to the biodiversity DEFRA metrics is in contradiction of their own evidence to the committee earlier in the process (e.g. hedgerow is now classified as being of strategic vice local importance); as a result they claim marginal biodiversity net gains. Bioscan's calculations of net loss (absent from the planning portal) are attached.

The committee is being asked to take assurance that the site will be managed effectively by all future landowners, and that this will **guarantee** future biodiversity gains. We do not see the plan as credible. Or, as the most recent RSPB report on biodiversity noted this week, there is a gulf between rhetoric and reality, resulting in a catastrophic failure of governmental policy on biodiversity.



h) Email from Page 105 ut to Cllr. Atherstone.

**From:** Ian Kirby <[REDACTED]>  
**Sent:** 15 September 2020 19:03  
**To:** Emma Pickernell  
**Subject:** FW: FOR THE ATTENTION OF CLLR VICTORIA ATHERSTONE PLEASE  
**Attachments:** Victoria Atherstone.docx; Oakhurst Attenuation Infographic v.7.pdf

Good evening Emma

Copy correspondence for your information and records

Kindest regards

Ian

**From:** Ian Kirby <[REDACTED]>  
**Sent:** 15 September 2020 18:58  
**To:** 'cldr.victoria.atherstone@cheltenham.gov.uk' <cldr.victoria.atherstone@cheltenham.gov.uk>  
**Subject:** FOR THE ATTENTION OF CLLR VICTORIA ATHERSTONE PLEASE

*Sent from the office of Huw Evans; William Morrison (Cheltenham) Limited*

Dear Councillor Atherstone,

I hope will forgive me making direct contact with you. My name is Huw Evans; I am a director of local company, William Morrison (Cheltenham) Limited.

Firstly, I would like to offer my warmest congratulations on your new role and appointment to the CBC Cabinet. This is an exciting period for Cheltenham at a time when there is a real opportunity to drive investment into our town, secure new infrastructure, and deliver on the Council's vision.

The recently approved Local Plan is an important part of this and a chance to show local business and wider investors that the town is serious about boosting the economy. One of the first opportunities to put this into practice will be on Thursday (17<sup>th</sup>) when our proposed development at Oakhurst Rise goes to planning committee. The site will deliver 43 new properties including 18 much-needed affordable homes. This is probably the only site in the plan period that will deliver a significant number of affordable properties in Charlton Kings in the near future.

Generally, there is a serious shortage of new homes in Cheltenham. Levels of demand are too high, driving up the price of housing stock, denying many of the opportunity to buy or even rent at a reasonable and affordable price. This is a deterrent to existing employers expanding and to new potential employers setting up in, or relocating to the area. The vibrancy within our local economy is not being adequately stimulated.

The Oakhurst Rise development affords other strong advantages;

The undeveloped area of the site will be Page 106 wildlife habitat in line with the wishes of the Gloucestershire Wildlife Trust

Flood risk from storm water which currently runs unabated off the hill will be lessened

The trees and ecology on the site will be the subject of long-term management and protection.

The site is in your Local Plan and backed by your officers. Nevertheless, we remain concerned that some councillors are actively campaigning against it.

Would you please consider offering balance to the debate led by local objectors, by introducing the counter arguments related to your new post and the responsibilities that accompany it?

I would be delighted to have an opportunity to discuss further with you and happy to speak on the phone or meet with you at any time and location convenient to you. My mobile number is 07767 236756 and my email is [huw@hdevans.co.uk](mailto:huw@hdevans.co.uk) . In the meantime, thank you very much for taking the time to consider my email.

With kind regards

Sincerely

Huw Evans

① Response to B. Page 107 Hyett from  
CBC Trees officer

File note/response to 10/9/20 Barton Hyett (BH)-Ian Monger report  
regarding trees at land adjacent to Oakhurst Rise

20/00683/OUT

A FLAC (applicants arb consultant) response to BH report is being created but as yet, Trees Officers/CBC have not received the final version.

Barton Hyett notes the divergence of opinion by Ancient Tree Forum, Woodland Trust and FLAC Arb consulting as to identifying veteran trees. His report does not identify what he considers are the veteran trees on site.

BH states that the FLAC identified veteran trees have not been afforded the increased root protection area now required under NPPF requirements and goes on to explain the reasons why this is the case (due to their being "relic" trees and have less than 75% of their former crown) and so require less rooting area from which to take water. However BH report that the reduced area will also impact the, soil, ground flora, fungi, water table and drainage, pollution and disturbance to wildlife and does not agree with this reasoning. There is no concept of a "relic" veteran in the NPPF. However, in CBC trees officer opinion, the trees to which this has been applied would have sufficient soil, buffer planting and other measures to protect them should this development proceed and reserved matters be agreed. FLAC would not have used this "relic" tree initiative unless he was confident that he could argue it at any appeal following any refusal.

Para 3.19 BH states that the end use impact on veteran trees has not been assessed (eg increased artificial light from dwellings and changes in hydrology). The nature of converting much of this site to dwellings, roads and open spaces will have an impact on the site. However the site has been designated as suitable for development and I consider that the current proposed design does respect, in the main, tree protection guidance. Assuming successful establishment of new trees in the proposed planting outline plan, there should (in the long term) be a net gain in canopy cover.

Para 4.1-5 BH States that the current design is an improvement on previous designs (from an arb perspective) and reduces the potential for damage and decline of all veteran trees (identified by FLAC) , as well as trees identified as veteran on the Ancient Tree Inventory and all trees with a TPO.

4.6-8-BH states that a small portion of the Root Protection Area (RPA) of T3014 is within the boundary of plot 30 and meets the foundations of the dwelling Plot 30. I consider this incursion to be marginal and indeed there is an equivalent (increased) rooting area for this tree elsewhere adjacent around its periphery. This tree is not shown as a veteran tree in the design- whilst it has many characteristics of a veteran, this argument has been rehearsed elsewhere.

4.9-the incursion into the RPA of T3015 with a no-dig road solution is a matter for the Highways authority regarding the acceptability of design. Such a no-dig road solution has been seen elsewhere outside this site (eg the entrance to the former police station on the A40).

4.10-BH states that tree protective fencing is very tight to the RPAs and there will be little scope for the insertion of haunchings, kerb stones etc. In my experience of large scale sites, there is often collateral and unexpected negative impact and damage to trees during the build phase of a site. However as BH states, as this is an outline application, a method statement can be agreed by condition.

4.12-BH states that construction of carriageway and deeper than normal foundations could have an impact on water flow/retention around retained trees. However, water availability as a result of rainfall will not be affected by this proposal as no significant construction is to take place under canopies of retained trees. Adaption of eg kerbside design can be altered so as to encourage/discourage water flow as appropriate as a planning condition.

4.13 The Veteran Tree buffers (VTB's) on T's 3007, 3018, 3026,3030 and 3031 are respected in according with the formal Standing Advice and is an improvement on previous applications

4.14-16a 15M radius circle to protect the RPA of veteran ash T3021 due to it being a “relic” tree would bring a small part of its western periphery into plot 10. However, if the standing Advice is taken at face value, then plots 10, 11 and 13 as well as a portion of road leading to plot 10 would be within the Standing Advice protected zone. This “relic” reasoning makes logical sense but is not strictly in line with the official formal guidance.

4.17-19-concerns regarding T3028 and the protection afforded to it post development. This is mirrored by my own comments and agreement could be reached via planning condition

4.21-22 Recommends drainage method statement close to Trees 3032 + 3033 can be agreed via planning condition but should include on-site arb supervision. I concur.

4.26-29 Describes concerns that the proposed extensive new planting will take much time money and resource over the longer term. A less than usual 10 Year Replacement Planning Condition is recommended. I concur.

It is also suggested to create a new TPO for trees/woodlands yet to be planted is suggested. This would give this council further leverage to enforce replacement trees as necessary and to achieve establishment and growth to maturity of the proposed planting. I concur. This TPO could also include the “tidying up” of the existing TPO (ie serve a new TPO on the existing retained TPO’d trees so that the site as a whole could be protected. A separate TPO could be created for all off site trees (within St Edwards School) which are subject to this same TPO.

4.30-32 Describes concerns regarding contravention of the NPPF and the Cheltenham Local Plan as a result of damage to veteran trees during and after the course of construction from construction pollution, end-use light pollution, changing the soil ecosystem and hydrology. In my opinion, development of the land will cause changes to the above, but my experience is that if the conditions and reserved matters can be agreed and protection is put into place as described in the Tree Protection Plan, that such change should be minimal and not significant.

C.Chavasse 15.9.20





① Response to B. Page 111 yett from  
applicant's arboriculturalist

FLAC Instruction ref. SC38-1036  
OAKHURST RISE

Cheltenham Borough Council Planning Application ref. 20/00683/OUT:  
Barton Hyett Associates' *Arboricultural Review*, 10.09.20

### Project Arboriculturalist's Response

#### ***Introduction***

1. I note that there is widespread common ground between us on arboricultural matters, including on the identification of ancient and other veteran trees, and on tree retention/ and removal outcomes arising from the proposals.

2. In light of this, BHA's concerns can be distilled to two matters:

- i) The concept of 'relic' trees; and
- ii) How the identified veteran trees would be safeguarded.

I discuss these matters in turn below.

#### ***Relic trees***

3. The concept of the relic tree is a response to the simple fact that the size of a tree's stem is driven by the maximum size of its crown: the protection afforded by any multiplier of stem size must, therefore, relate to safeguarding the tree at its peak size and, it follows, peak biological activity.

4. To some extent, maintaining a maximum safeguarding distance for a tree that is only marginally smaller than its peak size is reasonable. But at some lesser size this ceases to make sense due to the progressive reduction of the biologically active space that accompanies a diminishing tree.

5. Thus, if a tree is a *relic* of its former self, it is reasonable and proportionate to adjust the safeguarding requirement to reflect the reduction in biologically-active space that accompanies this. The estimate of crown loss threshold is set at 75% such that where a tree bears 25% or less of its estimated former maximum crown size, it passes the threshold for relic status.

6. The best example of a relic tree on this site is the ash tree numbered 3021, a photograph of which helpfully appears on the front cover of BHA's *Arboricultural Review*. Looking at this image objectively, it is clear that this is a tree missing the vast majority of its crown, and which bears a stem subject to massive vascular dysfunction. As a greatly diminished specimen it would plainly be irrational to treat it as if it were at its full size.



7. Where a relic tree is present (in this case with trees 3007, 3021 and 3028), I recommend applying protection via the RPA principle, calculated from the maximum continuity of vascular function in the stem, out to a cap of 15m.

8. Whilst the *Standing Advice* does not refer to the relic approach, equally it is clear that it does not address situations, such as tree 3021, where large-stemmed trees bear minimal residual crowns: simply, this is a matter on which it is silent. As such, practical, professional judgment is both required and desirable.

9. This was the approach taken with the appeal scheme and was accepted by the Inspector:

*At the Inquiry, it was equally established that there was no substantive dispute among the parties to the appeal that the root protection areas (RPAs) and veteran tree buffers (VTBs) of the trees proposed to be retained in the development have also been correctly defined in terms of BS5837 and Natural England Standing Advice*

*(Appeal Decision 20 September 2019 para 59, page 8).*

#### ***Safeguarding measures for veteran trees***

10. The BHA reviewer identifies a number of areas where he considers veteran trees could be adversely affected by the proposed development. Planning conditions are proposed to ensure protection of existing trees during construction, the ground water arrangements associated with the development, and the future management of all trees.

11. Thus working space, hydrology and light pollution - raised as issues by BHA - are all subject to Conditions, within the compass of which further safeguarding details can be sought by the Council in due course. These details will be submitted to the LPA for their approval, which accordingly retains full control over both process and outcome.

*Julian Forbes-Laird*

BA(Hons), Dip.GR.Stud, MICFor, MRICS, MEWI, Dip.Arb(RFS)

15 September 2020

APPLICATION NO: 20/00683/OUT	OFFICER: Mrs Emma Pickernell
DATE REGISTERED: 29th April 2020	DATE OF EXPIRY: 29th July 2020
DATE VALIDATED: 29th April 2020	DATE OF SITE VISIT:
WARD: Battledown	PARISH: Charlton Kings
APPLICANT:	W Morrison (Chelt) Ltd & Trustees Carmelite Charitable Trust
AGENT:	Frampton Town Planning Ltd
LOCATION:	Land Adjacent To Oakhurst Rise, Cheltenham
PROPOSAL:	Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration

### ADDITIONAL REPRESENTATIONS

16<sup>th</sup> September

Coversdown  
Birchley Road  
Cheltenham  
GL52 6NY

**Comments:** 14<sup>th</sup> September

In the light of the fact that Gloucestershire Wildlife Trust has designated the meadow as a local wildlife site, I would like this point added to my objection.

The local plan was agreed before the full biodiversity of the site was recognised. So 25 is at the upper limits of viability. 43 is unnecessary overdevelopment.

Losing grassland to trees (with dubious survival rates for the latter on steep clay hills) would be regrettable

HD4 requires protection of the biodiversity features not replacement, or mitigation for loss. We are losing important hedgerow, mature trees, an enormous badger sett and strategically important grassland (county ecologist says at least 57% will be lost).

How can this development proposal be considered to be "protection of the Biodiversity" ?

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Birchley Road  
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How can this development proposal be considered to be "protection of the Biodiversity" ?

27 Oakhurst Rise  
Cheltenham  
Gloucestershire  
GL52 6JU

**Comments:** 15<sup>th</sup> September

Letter ~~available to view in Documents tab.~~ *attached.*

The Old Hay Barn  
Bentham  
Cheltenham  
GL51 4TZ

**Comments:** 15<sup>th</sup> September

I support this application. at a time when we require new houses of all types to hold up this scheme further when it appears to have met planning policy and spending money that should have been spent on the scheme itself rather than fighting "not in my backyard" objectors.

Charlton Manor  
Ashley Road  
Cheltenham  
Gloucestershire  
GL52 6NS

**Comments:** 16<sup>th</sup> September

A couple of features of this new application have only just come to light.

1. The badger sett has apparently been moved to the north east corner of the site (although given it is a confidential annex residents are unable to offer proper opinion). Is moving 7+ adult badgers into the proximity of a listed building really advisable, given the subsidence and other problems that their digging causes in other parts of the borough? The current sett is advised to extend for nearly an acre under ground. HD4 requires the design to avoid heritage harm?

2. The site risks looking like Colditz for the next decade. The latest last minute revisions (none of which are included in the landscaping or design statements), and cause increased heritage

harm to both Manor Houses, now include fencing of the grassland (GWT request), fencing around the retention pond (presumably deer proof to prevent wildlife from getting trapped inside) to protect primary school children from drowning, fencing off the important hedgerow (tree officer), fencing off with deer proof fencing of all new planting (tree officer), and fencing to protect the veteran trees.

How can this be compliant with policy SD9 which requires biodiversity assets to have increased access wherever possible? The site has been community accessible for decades, with the right permissions from the school. All of this because there is no coherent master plan as required under HD4.

3. Given the Battledown fees for estate maintenance are high per household, and that is volunteer run (and to the mutual benefit of all), how are 'affordable homes' going to be able to pay for a commercial management company to run ecological management of a site to which they have no access?

Charlton Manor  
Ashley Road  
Cheltenham  
GL52 6NS

Comments: 16<sup>th</sup> September  
Letter attached.



27 Oakhurst Rise  
Cheltenham  
GL52 6JU

14 September 2020

Dear Ms Pickernell

Ref: 20/00683/OUT

Regarding the issue of access to the proposed site, it is important to highlight the appeal Inspector's comments made in September 2019 when he upheld the refusal of 18/02171/OUT:

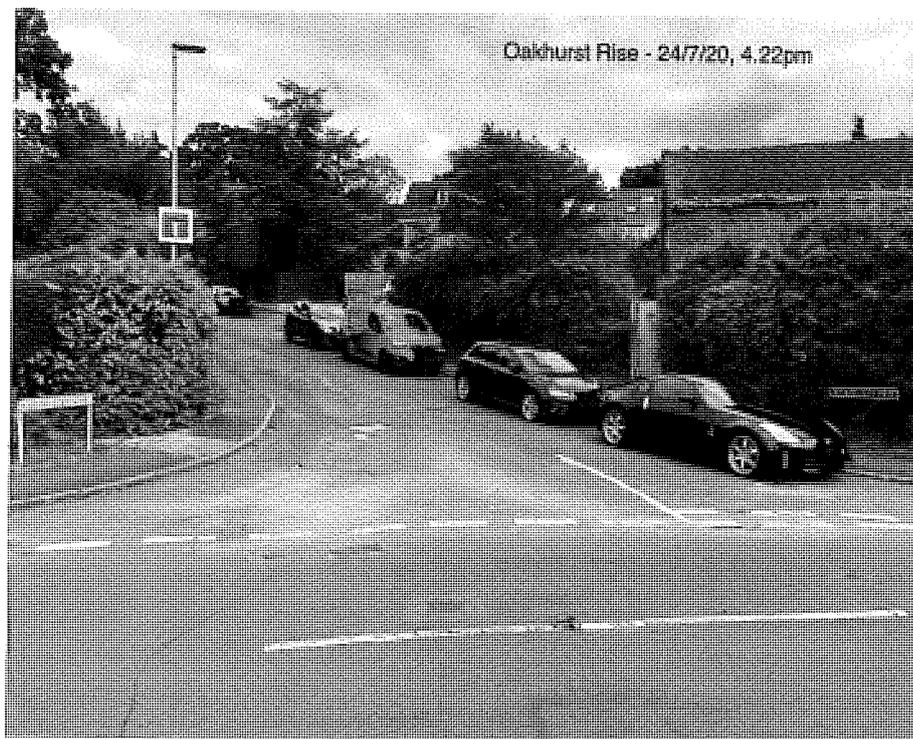
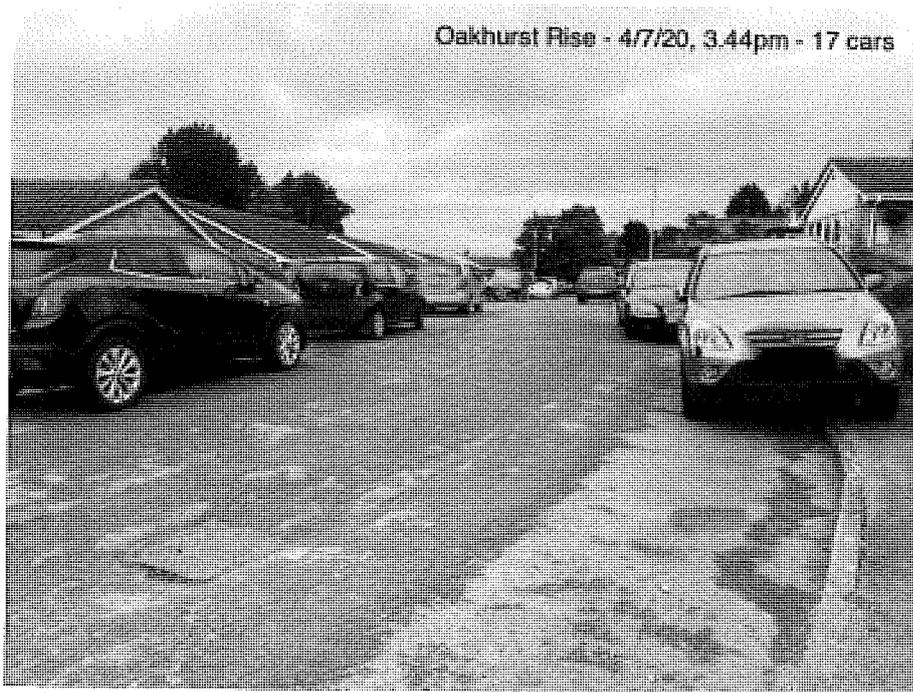
***Access and Traffic***

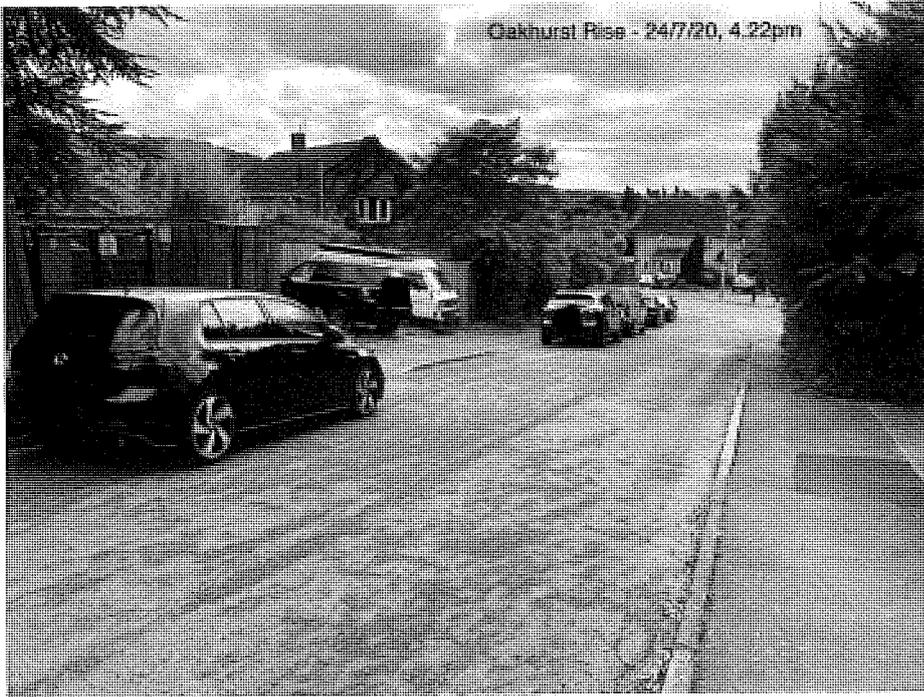
103. The route to the sole access point to the appeal site is over a network of residential access roads via an established housing area, with much on-street parking in place for much of the time. The cul de sac of Oakhurst Rise, which would be extended to form the on-site access roads to the proposed development, has a steep gradient.
104. I acknowledge that there are no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows.
105. However, such technical issues are not the only consideration in the assessment of the suitability of the access arrangements for new development. In this case, there are genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period, would add to congestion and inconvenience to existing frontage residents.
106. I am satisfied that such an increase in traffic flow would not have a significant impact on the wider highway network.
107. However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and might be at least assisted by the provision of an additional turning head proposed within the site. However, it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.
108. Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.

The following photographs demonstrate the high level of on-street parking in place for much of the time. As the Inspector noted, this access route, given the congestion together with a steep gradient (14%) is tortuous and far from ideal.

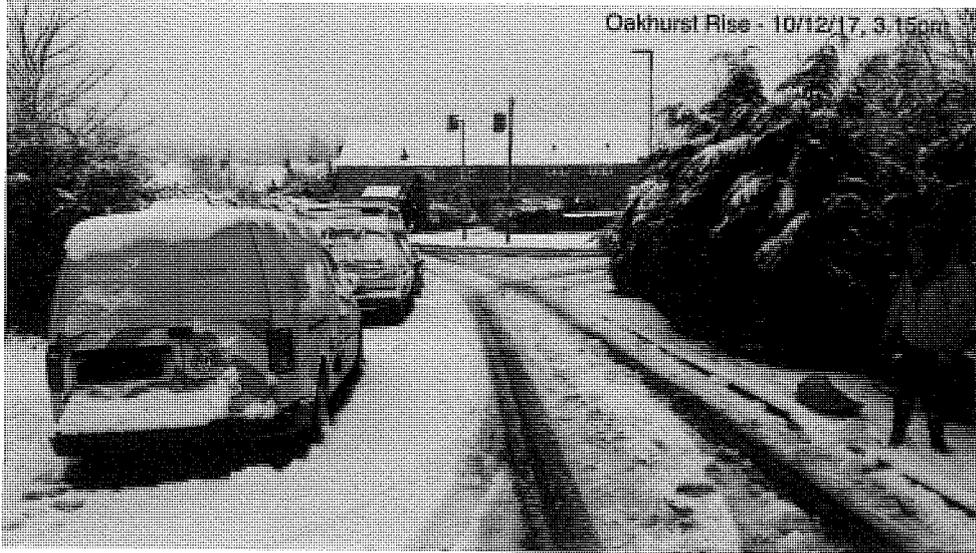
The photograph taken on 4/7/20 by a local resident is a good representation of normal on-street parking levels experienced each day on Oakhurst Rise. On this particular day, a total of 17 parked cars were noted on-street.

The photographs taken on 24 & 25/7/20 show the congested parking approaching the junction of Oakhurst Rise and Beaufort Road. Residents have reported many near misses when attempting to navigate this junction.





The last two photographs were taken following heavy snowfall in December 2017. Only four-wheel drive vehicles are able to access Oakhurst Rise in these conditions – residents resort to parking their cars in neighbouring roads, further down the hill.



Kind regards,



27 Oakhurst Rise

16 September 2020

20/00683/OUT

Dear Emma,

In reviewing the application with a heritage adviser, a point of detail has been identified which our less expert group had missed.

Any engineering operation counts as development. The attenuation pond (and associated boundary protection) is clearly development. You will want to take advice on whether the earthworks for drainage are also development.

Given this is in breach of the local plan inspector's direction on prevention of heritage harm (which prohibits development above Ashley Manor south of the line west from the school boundary), we will argue tomorrow that this is certainly in breach of policy HD4, and the resultant harm is counter to JCS and national policy.

You may want to take advice – and I can only apologise for the last minute input.

Kind regards,

A black rectangular redaction mark covering the signature of the sender.

Charlton Manor



**Relates to Part 5 Question 24d**

## Planning Committee

Thursday, 17th September, 2020

2.30 - 5.45 pm

Attendees	
<b>Councillors:</b>	Councillor Garth Barnes (Chair), Councillor Paul Baker (Vice-Chair), Councillor Dilys Barrell, Councillor Bernard Fisher, Councillor Paul McCloskey, Councillor Tony Oliver, Councillor John Payne, Councillor Diggory Seacome and Councillor Simon Wheeler
<b>Officers in Attendance:</b>	Daniel O'Neill (Planning Officer), Chris Chavasse (Senior Trees Officer), Nick Jonathan (Solicitor) and Emma Pickernell (Senior Planning Officer)

### 1. Apologies

Councillors Cooke and Collins.

### 2. Declarations of Interest

There were no declarations of interest.

### 3. Declarations of independent site visits

There were no declarations of site visits.

### 4. Minutes of last meeting

#### RESOLVED THAT

The minutes of the meeting held on 20<sup>th</sup> August 2020 were approved and signed as a correct record.

### 5. Planning/Listed Building/Conservation Area Consent/Advertisement Applications, Applications for Lawful Development Certificate and Tree related applications – see Main Schedule

### 6. 20/00683/OUT Land Adjacent To Oakhurst Rise Cheltenham

The Senior Planning Officer presented the report.

There were 2 public speakers in support of the application- Peter Frampton (on behalf of the applicant) and Alistair Baxter (Ecologist).

There were 3 public speakers in objection: Dave Edwards (Friends of Charlton Kings), Sam Watson (Ecologist) and Councillor Matt Babbage (as Ward Councillor).

The matter then went to Member questions, the responses from Officers are as follows:

- There are clauses within the section 106 agreement that require a full biodiversity management plan to be submitted.. Funding is outlined in the same section 106 agreement, which will require short and long term plans.
- With regards to concerns raised by the Badger Association and indemnity insurance to cover costs of appropriate mitigation works, the ecological adviser had advised that this would not be necessary. The Natural England licensing regime would come into play if badgers were to be relocated. Barriers to protect properties would have to put in place the same time as the construction of the artificial badger sett.
- The conditions required final agreement on boundary matters, however there was a precedent for this and it was important to establish if there were concerns about widespread harm or heritage aspects.
- The turning circle had been removed from the plan as there will now be places to turn closer to the site.

- With regard to the requirement for affordable housing, there was no obligation for the council to reconsider its agreements within 5 years. The site is tied into the current Section 106 agreement.
- There are no details regarding drainage at this point, however they are covered under the Comprehensive Conditions.
- The biodiversity officer confirmed that there is a net biodiversity gain across the whole site and the landscape strategy makes clear where open areas and grass spaces will be.
- There is key consideration to safe pedestrian, cycle and emergency vehicle access in icy and wet weather.
- With regards to the veteran trees and preventing water damage, this has been included in the conditions. The trees officer confirmed that it would be wise to put in deep foundations to reduce negative effects, the trees are relatively far from the development but it was important to err on the side of caution.
- Any person who purchased the site would be subject to the same restrictions and conditions, however a third party buyer could in theory reduce the amount of social housing, but the authority would have the ability to approve or refuse this.
- It was pointed out that Members were not establishing a rigid principle of 43 homes but considering all aspects and weighing up the benefits of the properties versus any harm caused.
- It was acknowledged that highways access was not easy, but this was not necessarily a problem since this would mean vehicles would approach with caution. Highways had considered the access as suitable for the proposed development.
- With regard to the 42% affordable housing issue it was confirmed that the Section 106 is a legal agreement and the authority assumes that this will be complied with in a lawful way.

The matter then went to Member debate:

- Reference was made in the report to the previous appeal which stated that the general point of harm of the application outweighed the benefits. This remained the case in his view. Two inspectors have stated that 25 dwellings were an appropriate number, but it was queried how this number had changed to 43 so quickly? Significant changes to the ecology of area would not be justified. Concern was expressed that the s106 agreement had not yet been signed. The committee should refuse this application, for the reasons previously given.
- Reservations were expressed about the access road and difficult ascent, especially construction vehicles when building the turning circle. However, it was clarified that this was not part of the application being considered.
- There was surprise that the applicant had not considered alternative, more sustainable routes.
- Concern was expressed with regard to habitat erosion and loss of nature. 43 dwellings would be considerably more than the 25 inspectors thought suitable, and would cause far more damage to the surrounding area. The Head of Planning reminded Members of the historical context. In October 2018, the local plan was examined and reported on by officers. The Planning team then responded by preparing modifications to the plan. The word 'minimum' was added before '25' following formal consultation. The Plan then returned to Council in July 2020 and was approved by Members for full adoption.
- One Member had opposed previous applications, but would support it this time subject to key conditions. He emphasised that the housing waiting list in Cheltenham was significant at 1,000 families and this was key in his mind. Previous applications submitted had caused concerns relating to unacceptable biodiversity damage, but this represented a very different application. He was grateful for the advice of independent consultants, who suggested that a net biodiversity gain would result. The section 106 agreement, with all its conditions, makes the application acceptable. He emphasised that any changes must come back to the committee, and if in the future developers altered or removed the affordable housing commitments then it

would be rejected. Two other Members echoed that they would support the application – with mixed feelings about development, but housing provision was key.

- The Trees Officer advised that an advisory notice regarding trees would be more sensible than a condition which may not be achievable.

**Vote on officer recommendation to permit :**

For: 4

Against: 5

Abstain: 0

**The application was REFUSED.**

The Chair then asked that Members consider their reasons for refusal.

Members spoke as follows:

- The number of dwellings was an issue, as was the lack of detail in the design and a perceived failure to follow the Local Plan.
- Policy HD4 was key, as were the comments from Historic England.
- Loss of biodiversity was also highlighted.

The Head of Planning advised that Members should be clear on the reasons for refusal to ensure that the decision was sound and consistent with policy. He advised that the number of dwellings would not be a safe reason for refusal, since the Local Plan stated ‘a minimum of 25’. Further reasons suggested by Members, such as biodiversity damage, were also unlikely to be suitable reasons for refusal due to the professional advice received.

Members considered the matter of likely harm to heritage assets, including listed buildings, as the grounds for refusal which had also been raised by the inspector in the previous application.

**Vote on proposed grounds of refusal as likely harm to heritage assets**

For: 5

Against: 3

Abstain: 1

**7. 20/01223/CONDIT The Quadrangle, Imperial Square, Cheltenham**

The Head of Planning presented the application.

In response to Member questions the Head of Planning responded that annual lease agreements were provided and not enshrined for any permanent period of time.

In the short debate Members welcomed the improvements already made to the existing site, during a time of economic uncertainty.

There were no further points raised and the matter went to the Legal Officer to take the vote.

**Vote on officer recommendation to permit :**

For: 9

Against: 0

Abstain: 0

**PERMIT**

**8. 20/01041/FUL 4 Moored Glade, Cheltenham, Gloucestershire**

The Planning Officer presented the application.

There was one public speaker (the applicant) spoke in support of the application. He explained to Members why he required the additional space. He added that he had consulted with an engineer about how he could increase the space in the house with only minimum impact on neighbours.

There were no Member questions. Members supported the application.

**Vote on officer recommendation to permit :**

For: 9

Against: 0

Abstain: 0

**PERMIT****9. Appeal Updates**

There were none

**10. Any other items the Chairman determines urgent and requires a decision**

There were none and the next scheduled meeting is 15<sup>th</sup> October.

Chairman

**Relates to Part 5 Question 24f**

# CHELTENHAM PLAN

ADOPTED JULY 2020



**CHELTENHAM**  
BOROUGH COUNCIL

## POLICY HD4: LAND OFF OAKHURST RISE

Site description	This site is a greenfield site within the existing urban area. However, the site is subject to a number of constraints and therefore the allocation of dwellings on the site has been adjusted to accommodate these.
Site area	4ha
Constraints	<ul style="list-style-type: none"> <li>• Steep gradients across the site</li> <li>• Mature trees and hedges</li> <li>• Adjacent listed buildings</li> <li>• Biodiversity</li> <li>• Heritage assets</li> <li>• Ice House</li> </ul>
Site specific requirements	<ul style="list-style-type: none"> <li>• A minimum of 25 dwellings, subject to masterplanning (in accordance with Policy SD4 of the JCS) which demonstrates that the development can be achieved whilst accommodating:</li> <li>• Safe, easy and convenient pedestrian and cycle links within the site and to key centres</li> <li>• A layout and form that respects the existing urban characteristics of the vicinity</li> <li>• A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development</li> <li>• Protection to key biodiversity assets and mature trees</li> <li>• New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.</li> <li>• Long term protection of mature trees and hedges</li> <li>• Any development on the site should secure improvements to the Ice House</li> </ul>

**Gloucester, Cheltenham and Tewkesbury  
Joint Core Strategy  
2011 - 2031**

**Adopted  
11<sup>th</sup> December 2017**

## SD8 – HISTORIC ENVIRONMENT

### Background

- 4.9.1 The JCS and district plans will together provide a framework of policies for securing the conservation, enhancement, improvement and enjoyment of the historic environment. These policies will be supported where appropriate by local strategies, partnership projects, and urban regeneration initiatives including local transport improvement schemes.
- 4.9.2 The historic environment provides a tangible link with our past and is worth preserving for its own sake and for future generations. It forms a central part of our cultural heritage and contributes to our sense of community identity. It also provides the character and distinctiveness that is so important to a positive sense of place.
- 4.9.3 The JCS area has a rich and diverse historic environment which is evident in the survival of individual historic assets including some 4,888 listed buildings, 35 conservation areas, 88 scheduled ancient monuments, and other sites of historic interest such as battlefields, parks, gardens, landscapes and archaeological sites. These include important historical features such as Gloucester's Roman remains, Cathedral, canal corridor and docks; the Regency architecture and town planning of Cheltenham; and Tewkesbury's historic core, waterways, medieval abbey, Wars of the Roses battlefield, market towns and villages with mediaeval origins, wider rural landscapes and agricultural heritage. The architecture of all three districts has also been influenced by the availability of Cotswold building stone.
- 4.9.4 New forms of development can enhance or erode the appearance, character and distinctiveness of our historic environment. A key challenge for the future is therefore to manage change in a way that realises the regeneration potential of the area while protecting and capitalising on its unique heritage.

## *Policy SD8: Historic Environment*

- 1. The built, natural and cultural heritage of Gloucester City, Cheltenham town, Tewkesbury town, smaller historic settlements and the wider countryside will continue to be valued and promoted for their important contribution to local identity, quality of life and the economy.*
- 2. Development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment.*
- 3. Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place. Consideration will also be given to the contribution made by heritage assets to supporting sustainable communities and the local economy. Development should aim to sustain and enhance the significance of heritage assets and put them to viable uses consistent with their conservation whilst improving accessibility where appropriate.*
- 4. Proposals that will secure the future conservation and maintenance of heritage assets and their settings that are at risk through neglect, decay or other threats will be encouraged. Proposals that will bring vacant or derelict heritage assets back into appropriate use will also be encouraged.*
- 5. Development proposals at Strategic Allocations must have regard to the findings and recommendations of the JCS Historic Environment Assessment (or any subsequent revision) demonstrating that the potential impacts on heritage assets and appropriate mitigation measures have been addressed.*

*This policy contributes towards achieving Objectives 1, 2, 4 and 5.*

### Explanation

- 4.9.5 The three districts in the JCS area individually enjoy and collectively share elements of an historic and cultural identity and a strong sense of place. Distinctive elements of the historic environment include, but are not limited to:
- i. Historic cores and their settings within the key urban areas
  - ii. Historic suburbs and their settings within the key urban areas
  - iii. Smaller historic settlements and their settings both within Tewkesbury Borough and on the edges of Gloucester and Cheltenham (including former villages)
  - iv. Areas of Victorian and Edwardian development which survive with a high degree of integrity, including terraced housing and its associated amenities
  - v. Areas of extensive suburban development which date from before the Second World War, including public housing and private developments of semi-detached and detached housing
  - vi. Public open spaces, including Victorian and Edwardian municipal parks, and gardens and cemeteries
  - vii. Private open spaces including those associated with ecclesiastical, educational, canal, dockside or riverside uses
  - viii. The Gloucester and Sharpness Canal and its associated infrastructure of dockland ancillary buildings and structures

- ix. Buildings, structures and archaeological remains of traditional countryside skills, traditional manufacturing, traditional transportation, and associated practices
  - x. Archaeological evidence of the development of the JCS area, including its urban and rural settlements, individual archaeological sites and structures, the wider historic landscape, and those currently unidentified heritage assets that may be discovered in the future
  - xi. The vernacular architecture of the Cotswolds and the Severn valley
- 4.9.6 New development should complement and relate to its surroundings, not only in terms of its appearance but also in the way that it functions. This will require developers to consider the relationships between buildings, relationships of buildings to their settings, and relationships with adjacent land uses and the wider landscape, all of which contribute to local character and distinctiveness.
- 4.9.7 Heritage assets are a major factor in defining local character and distinctiveness. They also contribute to the success of the local economy by generating inward investment and tourism, which in turn helps to secure the long-term future of our heritage.
- 4.9.8 Designated heritage assets include world heritage sites, scheduled monuments, listed buildings, protected wreck sites, registered parks and gardens, registered battlefields, and conservation areas designated under the relevant legislation. Undesignated heritage assets include archaeological sites, historic designated landscapes, historic buildings and other structures including local listing.
- 4.9.9 The JCS authorities and their partners, including Gloucestershire County Council and Historic England, maintain an evidence base relating to the historic environment. This is an important source of information for developers. It also informs local strategies, initiatives and partnership projects associated with the conservation and enhancement of the historic environment, regeneration and place shaping, as well as the development management process. The evidence base includes Historic Environment Records maintained by Gloucestershire County Council and Gloucester City Council; Conservation Area Character Appraisals and Management Plans for each local authority; local listing including Cheltenham's Index of Buildings of Local Interest; Heritage at Risk registers held by English Heritage and supplemented by local records; Gloucestershire Historic Landscape Characterisation and other assessments of landscape character and sensitivity (refer to Policy SD6); and information held by the Gloucestershire Records Office.
- 4.9.10 The JCS Historic Environment Assessment has also been undertaken in order to provide a review of the historic environment at Strategic Allocations. The assessment is based on existing archaeological and historical records and surveys of built heritage and historic landscape character. It considers the impact of potential development on the historic environment resource within and surrounding each of the strategic allocation areas. It also provides advice on planning requirements and on further assessments that will need to be carried out prior to development, as well as suggesting mitigation measures. Development proposals at Strategic Allocations must have regard to the findings and recommendations of the JCS Historic Environment Assessment (or any subsequent revision).

#### Delivery

- 4.9.11 The NPPF provides a framework for conserving and enhancing the historic environment, which sits alongside a range of legislative regimes associated with planning and heritage. Policy SD8 reinforces that framework. To ensure that the historic environment makes a

positive contribution towards wider social, cultural, economic and environmental benefits, the JCS takes a holistic approach and Policy SD8 should be read in association with other policies, particularly those relating to design Policy SD4, landscape Policy SD6, and social and community infrastructure Policy INF3. District plans will provide supplementary policies as required, having regard to the variety, significance and condition of heritage assets in each local authority area.

4.9.12 Delivery of this policy will be through a range of mechanisms and funding streams. Local partnerships will have an important role to play, through regeneration and place-shaping initiatives, including local transport improvement schemes. Funding sources will include central funds such as the Heritage Lottery Fund, and developer contributions made through Section 106 or the Community Infrastructure Levy (CIL). The historic environment will also be conserved and enhanced through careful development management. Effective delivery will require close liaison with landscape, conservation and archaeology experts, and consultation with bodies such as Historic England and national amenity groups.

4.9.13 Development proposals must describe the significance of any heritage assets affected, including any contribution made by their setting. Proposals should also be supported by proportionate evidence demonstrating that the historic character and distinctiveness of the locality have been assessed and taken into account when preparing proposals. Where a development site includes, or has potential to include, heritage assets with archaeological interest, a desk-based assessment and, where necessary, a field evaluation must be submitted to the planning authority. Developers are required to record and advance understanding of any heritage assets to be lost (wholly or in part) through development and must provide this information to the relevant local authority for inclusion in the appropriate Historic Environment Record.

**Relates to Part 5 Question 24o**



# 1. INTRODUCTION

- 1.1 The application site is a large, undeveloped parcel of land, approximately 4.3 hectares, located to the east of the borough within the Principal Urban Area (PUA), in an elevated position above the town. The site comprises two fields of grassland separated by a mature hedge and trees, and is largely bound by hedging and trees. Members will revisit the site on planning view.
- 1.2 Residential properties in Birchley Road and Ashley Road are located to the north and east of the site, and Oakhurst Rise to the west; St Edward's Preparatory School is located to the south.
- 1.3 The site is heavily constrained due to the presence of a number of protected trees; the sloping nature of the site; the presence of protected wildlife species; the presence of an historic Ice House; and its close proximity to listed buildings.
- 1.4 Currently, the site forms part of the wider St Edward's Preparatory School site but is owned by The Carmelite Charitable Trust who lease the land to the school.
- 1.5 Members will recall a previous outline application for the erection of 90 dwellings on the site (application ref. 17/00710/OUT) was refused by the Planning Committee in July 2018 for the following reasons:

- 1 *The proposed development would result in the loss of a significant number of trees within the application site, including a number of important TPO'd and veteran trees; the loss of which would fail to be outweighed by wholly exceptional reasons. The proposed layout would also fail to achieve the greater Root Protection Area (RPA) distances recommended by The Woodland Trust for the retained ancient and veteran trees.*

*The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), and paragraph 175(c) of the National Planning Policy Framework (2018).*

- 2 *The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.*

*The development would therefore be in conflict with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2018).*

- 3 *The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored.*

*The access would therefore be at odds with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policy INF1 of the Joint Core Strategy (2017), and paragraphs 108 - 110 of the National Planning Policy Framework (2018).*

- 4 *The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the related sett. Generally, the development would have a negative impact upon biodiversity across the site.*

*The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175(a) of the National Planning Policy Framework (2018) and Natural England's Standing Advice.*

- 5 *The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.*

*The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).*

- 1.6 This application is now seeking outline planning permission for a revised scheme which proposes the erection of 69 houses (40% affordable); again with access provided from Oakhurst Rise. As before, the application is seeking approval for the access, layout, and scale; with matters relating to appearance and landscaping reserved for future consideration, should the principle of developing the site be considered acceptable. The proposed housing mix comprises:

- 6no. one bed flats
- 14no. two bed flats
- 4no. three bed flats
- 4no. two bed houses
- 10no. three bed houses
- 24no. four bed houses
- 6no. five bed houses
- 1no.six bed house

- 1.7 The principal changes between the 2017 application and the current proposal are:

- A significant (23%) reduction in the number of houses proposed;
- The retention of all but one of the large Veteran/TPO'd trees and a significant portion of the hedgerow which crosses the site;
- Additional provision of green space throughout the site;
- The omission of the three storey apartment block in the southwestern corner of the site.

- 1.8 In addition to drawings, the application has been accompanied by a number of detailed reports and statements, all of which have been available to view on the Council's website.

- 1.9 The application is the subject of an objection from the Parish Council and Historic England.



CP 4 Safe and sustainable living  
CP 5 Sustainable transport  
CP 7 Design  
BE 20 Archaeological remains of local importance  
GE 2 Private green space  
GE 3 Development within extensive grounds  
GE 5 Protection and replacement of trees  
GE 6 Trees and development  
GE 7 Accommodation and protection of natural features  
RC 2 Youth and adult outdoor playing facilities  
RC 5 Development of amenity space  
RC 6 Play space in residential development  
RC 7 Amenity space in housing developments

#### **Adopted Joint Core Strategy Policies**

SP1 The Need for New Development  
SP2 Distribution of New Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD6 Landscape  
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

#### **Supplementary Planning Guidance/Documents**

Development on garden land and infill sites in Cheltenham (2009)  
Flooding and sustainable drainage systems (2003)  
Landscaping in new development (2004)  
Planning obligations (2003)  
Planning obligations: transport (2004)  
Play space in residential development (2003)  
Public art (2004)  
Security and crime prevention (2003)  
Sustainable buildings (2003)  
Sustainable developments (2003)  
Travel plans (2003)

## **4. CONSULTATION RESPONSES**

### **GCC Highways Development Management**

*13th December 2018*

See Appendix 1.

### **Joint Waste Team**

*6th November 2018*

These properties will all be individual dwellings, so there will be a requirement on each homeowner to present their waste and recycling on the kerbside of the nearest adopted

highway. Therefore the pavements have to be wide enough to accommodate these receptacles and for them to be in situ for one out of every 10 days, not posing an obstruction to pedestrians including wheelchairs and pushchairs.

All brick shaded roads would likely be block paving and therefore they would either have to be built to withstand up to 26 tonnes or those residents would be required to present their receptacles at the adopted highway which would likely be the grey internal roadways. There is likely to be a great deal of on-street parking and so the roads themselves have to be wide enough to allow a 26 tonne refuse vehicle to gain the necessary access at all times of the day without the need to mount pavements.

Finally, with this many properties being built, there will be a phased approach and so the developer has to take account of the need for waste and recycling collections from residents having moved onto the site to take place whilst building is still underway. Ulico therefore must be able to gain access and also be completely indemnified from any damage caused to unfinished roads etc.

## **Architects Panel**

*14th December 2018*

### Design Concept

The panel had stated when reviewing the previous Outline Application on 27th September 2018 that there was no objection to the principle of a housing development on this site. This new application is for less dwellings (69) and for a different layout which claims to be in response to the reasons for refusal of the previous scheme. Although only an Outline Application, approval is sought for matters relating to access, layout and scale.

The suitability of the site access off Oakhurst Rise was not considered in detail by the panel as this is more of a matter for comment by County Highways.

The layout and scale of the development was debated at some length and the panel concluded that, given the sensitivity of the site, further information should be submitted to explain the design approach to the layout, the mix and how the development would appear in three dimensions - views looking in and out of the site would greatly assist a design appraisal of the impact of the development on surrounding buildings and landscape features.

### Design Detail

The panel acknowledged the reduced density was an improvement on the previous scheme but questioned if other site layout options had been considered - the plan submitted appears to give prominence to the access road and extensive car parking provisions required for the number of dwellings. Public amenity spaces are welcome but appear to be of secondary importance and do not appear to be linked in any way. Connectivity of these spaces and an understanding of how they are managed and maintained would be helpful.

The development mix and scale of the buildings needs to be reviewed when further three dimensional views of the site are available. Views from surrounding areas showing the relationship of houses to neighbouring properties, and in particular the Grade II\* listed building, will be helpful.

### Recommendation

Submit further details to justify the design approach.

**Parish Council**  
*20th November 2018*

Further to the CKPC Planning Committee Meeting of 5/11/18, we object to the above application with the following comments:

This application does little to address the Committee's concerns to the previous application for this site (17/00710/OUT), copied below for reference, except the reduction in numbers of dwellings.

With the limited time to assess the revised layout it has not been possible to corroborate the claimed reduced impact on the existing trees and hedges and the Committee would defer to the CBC Tree Officer's view on this.

With reference to drainage and flooding we again have found no reference as to how the attenuation system is to be maintained and managed. While the Committee is not qualified to check the adequacy of the proposed design, without such a management strategy in place the attenuation will not be effective in the long term.

As before, the Residential Travel Plan is simply not credible. The severity and length of the slope of Oakhurst Rise means that local amenities and services are not practically accessible on foot or by bicycle. Therefore, the vast majority of movements to and from the development, even to local amenities, will be by car. The Committee notes the plan to offer a grant towards the cost of one e-bicycle per dwelling, but would comment that the dwellings will have multiple occupants of varying age / size and that this is hardly a long-term plan. For example: what would happen when properties change hands? This e-bike promotion is little more than a gimmick and merely shows that the developer accepts that the site is not practically accessible on foot or by bike via Oakhurst Rise. Such isolation from the surrounding amenities is a poor design and will hinder the integration of residents of these new dwellings into the surrounding community.

We note the increase in open / wild spaces but would still comment that even if the relocation of the badgers to a new artificial sett was successful, the fact remains that the bulk of the area that the badgers now forage in will now be private gardens or open public spaces or roads and car parking. This can only bring the badgers in to conflict with people both in terms of damage to private and public landscaping and the likelihood of collisions with cars at night. The Committee would wish to see evidence / proof that such sett relocations, in close proximity to new housing, is sustainable and does not bring about conflict with people.

Lastly, as before, we reiterate our objection on the grounds that the impact on the quality of life for the existing residents of Oakhurst Rise is unacceptable. While the reduction to 69 dwellings would reduce the impact on these existing residents compared to the previous application, it would still transform the area from a quiet cul-de-sac to a busy through route. Sustainable Development is meant to have a positive impact on peoples' quality of life. This proposed development, while less damaging than the previous scheme due to the reduced number of dwellings, would again, beyond any reasonable doubt, have the opposite effect. The proposed access to the site remains unsuitable.

*17th July 2018*

Further to the CKPC Planning Committee meeting of 9/07/18, we object to the above application with the following comments:

The revisions to the Application in documents published on 2nd & 3rd July do not appear to make any material difference to what is only an outline application and do not address any of our previously stated objections as listed below.

We also note with some surprise that the Case Officer has published her report, recommending permit, on 12th July, even though the Statutory Consultation period expires 17th July.

**Previous Comments:**

In addition to those previous comments we note that the Barton Hyett Associates Arboricultural Review of the proposals suggests that the proposed development substantially under-estimates the impact on the trees on the site, including trees with TPO's, with the locations of trees being mis-recorded, their size under-measured and the required Root Protection Zones under-calculated. While the Committee is not qualified to assess which approach to the classification of trees and calculation of their Root Protection Areas is correct, this report does support and reinforce concerns previously raised by the public.

With respect to flooding concerns we also note the further objections from the Cheltenham Flood & Drainage Panel. The proposal does contain an attenuation system, but we have not found details of how it would be managed & maintained in the future. While the Committee is not qualified to check the adequacy of the proposed design, without such a management strategy in place it will not be effective in the long term.

The Residential Travel Plan is based on the premise that "The local accessibility of the site meets the bottom tier of the pyramid as it is accessible by walking and cycling, and is within close proximity to a range of local services and amenities". Since this is patently incorrect, the document's conclusions are similarly incorrect. The Committee understands that it has been suggested that the CBC Planning Committee site visit is organised so that the members of the Committee walk the route to assess the viability of pedestrian access at first hand. CKPC Planning Committee whole-heartedly support this call and would suggest that walking from the Sixways public car park, adjacent to the Doctor's Surgery, would be a good assessment of the viability of pedestrian or bicycle use to and from the site.

Lastly, we reiterate our objection on the grounds that the impact on the quality of life for the existing residents of Oakhurst Rise is quite simply unacceptable. Sustainable Development is meant to have a positive impact on peoples' quality of life. This application would, beyond any reasonable doubt, have the opposite effect.

Comments from 14/9/17:

**Environmental:**

Members of the public have raised concerns over the environmental impact of the proposed development with concerns raised over the many mature trees, including large oaks, on the site and how many of them are protected or not protected. There are long established hedgerows on the site and the low intensity of use and cultivation has made the site a haven for wildlife including a well-established badger sett.

**Heritage:**

The development would have a significant impact of the setting of the listed buildings of the St. Edward's site

**Drainage & Flood Risk:**

A member of the public reported that a previous application in 1984 for this site for a three-acre scheme was objected to by Severn Trent on the grounds that the existing sewer system in the area had inadequate capacity for the additional volumes that would be generated. It was unclear whether this objection related to foul or surface water.

The geotechnical report in the application confirms that the underlying ground is impervious and will allow for no infiltration of surface water, ie that surface water cannot

be managed by soakaways and that all surface water will have to be attenuated to prevent exacerbating downstream flood risk from the existing surface water system.

#### Local facilities:

Local public services are already under strain. All the local primary schools in the Parish and both Balcarras (in the Parish) and Pittville (the next nearest secondary outside the Parish) Schools are oversubscribed. The GP Surgeries at Sixways and Berkeley Place are reported as already having substantial waiting times. This development should not proceed without sufficient developer contribution to ameliorate the impact of increased demand on these services from the resultant population increase. Failure to provide sufficient additional capacity in these local services would make this Application detrimental to the quality of life of the existing residents of the Parish and make severely limit the availability of the services to the residents of this proposed development.

#### Transport & Access:

The access to the area via Oakhurst Rise is not suitable. The Committee would urge Officers and Members of the CBC Planning Committee to assess for themselves the length and severity of the slope to the top of Oakhurst Rise. This climb to the site would greatly limit the proportion of journeys that would be undertaken to or from the site by foot or bicycle, even to local facilities, preventing meaningful levels of sustainable transport. Concerns were raised that the figures stated in the application documents for distances to local amenities such as Holy Apostles School are incorrect.

It is reported that during icy weather and snow the residents of Oakhurst Rise have to leave their cars parked at the bottom of Oakhurst Rise and around the Ewens Farm estate due to the severe risk of slipping and causing injury and / or damage. Such arrangements would clearly be impractical for the cars from a further 100 dwellings.

The forecast volumes of traffic to be generated by the development forecast are unrealistically low. A common-sense estimate of volumes may be an average of two cars per household each morning and evening. The Committee would suggest that CBC commission an independent forecast / modelling of potential traffic flows to and from the site to better assess the impact on existing residents and the road network (particularly the flows through Ewens Farm and the junctions onto London Road and Hales Road.

Lastly, and most significantly, the impact on the quality of life of the existing residents of Oakhurst Rise would be quite simply unreasonable. Those residents currently live in a quiet cul-de-sac. Their relatively narrow street will be transformed into a through route for all the movements of the residents of another one hundred dwellings and all associated deliveries to those properties. The National Planning Policy Framework clearly lays out a presumption in favour of Sustainable Development. Cl. 9 of the NPPF states:

"Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, including (but not limited to):

- improving the conditions in which people live, work, travel and take leisure."

This application can in no way improve the conditions in which the existing residents of Oakhurst Rise live, and fails to provide any realistic access to sustainable transport for residents of the proposed development.

## **Tree Officer**

*30th November 2018*

The CBC Tree Section considers this application more sympathetic to trees than the previous application to develop at this location.

All but one of the large/major trees are intended for retention and the north south hedge line within the middle of this site is to be mostly retained. Of the large veteran/TPO'd trees for retention, perhaps this one could be considered the least significant due to its inherent characteristics. However, nevertheless, it is still an important TPO-protected tree. Given the improved, more sympathetic layout of this scheme compared to the previous one, as well as the proposed retention of other trees of significant arboricultural value combined with the outline extensive planting plans, CBC Tree Section do not object to this application subject to the following modifications/clarifications:

- 1) There are various conflicts between the identification of veteran and ancient trees as described by Arb consultant Julian Forbes Laird (of FLAC) and as described by The Woodland Trust and the Ancient Tree Forum (WT/ATF). Similarly, CBC Trees Officers also have a view which lies somewhere between FLAC and the WT/ATF perspectives. FLAC describes confirmation of veteran status by Sylvan. It would be useful to see how such veteran status results were achieved. Similarly, it would be helpful to understand how the WT/ATF arrived at their Ancient/Veteran tree status designations.
- 2) There are several instances where proposed root protection distances are cut into by the proposed development. At such locations, there can be differences of opinion as to whether such trees are veteran trees or not. If they are veteran/ancient trees, the 15X the stem diameter or 5metres from the edge of the canopy if greater (standing advice from Natural England) has been infringed. In the main, such infringement is not considered overly significant and there may be ways of further reducing the impact through the use of no-dig solutions Specifically such tree designation and incursion applies to trees (as numbered by FLAC) T3015, 3010, 3008, 3018, 3021, 3030 and 3031. The uses of pile and beam foundation types as well as no dig solutions where roadways skirt the protection areas are recommended.
- 3) There appears to be an alleyway to the rear of plots 49-51. This too should also be removed or it's construction method modified.
- 4) There is an intention to remove a part of TG3021. There are several small more unusual trees/shrubs within this copse which could be moved elsewhere on this site-eg to fortify the retained hedge. Such species include yew and broom.
- 5) The part of the hedgerow north of T3021 is shown retained but is not protected during the course of construction. Please could this drawing 38-1036.03 be amended and resubmitted taking account of this.
- 6) Proposed new tree planting along the southern boundary should not affect nearby properties as such properties are set quite far back. However there is a large line of cypress towards the south east of the site but situated within school grounds which would likely hinder prompt growth rate (shade, water demand etc) of new trees planted to the north of this line of evergreens. It is strongly recommended that such trees are removed or made considerably smaller.
- 7) Offsite tree group T3002 has quite low branch work which is likely to take up 7-8 metres of the rear of plot T32. As such any inhabitants are likely to want these branches pruned off to make the garden more useable. It may be preferable to prune such branch work off at the time of other tree works within this site.

- 8) A shade analysis of trees to be retained and the potential impact on adjacent properties at different times of day and at different times of year should be submitted. This should demonstrate that the degree of shade cast should be broadly acceptable. Proposed retained trees are of such a height and such a distance from proposed properties that there should not be unreasonable requests to prune or fell as a result of safety related concerns of tree or limbs falling onto buildings (though they could fall within garden land space). However retained trees are subject to a Tree Preservation Orders and as such pruning/removal can be controlled.
- 9) Tree retention of T3028 and the proposed protection is welcome. Please could proposed shrub/hedge planting of the outside of the adjacent (plots 1-5) be planted so as to soften the appearance of any close board rear garden fence when enjoying this tree.
- 10) Thrust boring for drainage within RPA of T3031 and 3032 should be moved away from 3031 (veteran tree). Confirmation that such thrust-boring is possible for such surface and foul water sewers in such soil must be agreed.
- 11) Given the shrinkable clay nature of soil, all property foundations must take account of potential subsidence as a result of tree root desiccation.
- 12) It would be preferable if the whole of the proposed open space around T3015 is protected permanently during construction. This will not only increase the protection area of this valuable tree but will also help ensure that the site/soil profile is suitable for the planting of new trees. This may make any construction site difficult to manage/store materials due to a lack of available working space. Construction managers must be aware of such potential working space related difficulties. Should this application be permitted, reserved matters discharged etc and construction begins, it will not be possible to reach compromise regarding the positioning of tree protective measures.
- 13) It is noted that whilst a break in the hedge line to accommodate a road will break the overall linear habitat, it is recognised that this section of hedge line appears to be mainly composed of self-set plum trees and blackthorn scrub. Similarly, there is an existing natural break in the hedge south of T3021 where a footpath is proposed.
- 14) A Veteran tree management plan is to be submitted as a part of any Reserved Matters. Similarly, any proposed open space landscape plan should also be submitted as a part of reserved matters. It is noted and welcome that native trees to be planted in open spaces will be ultimately large. Hedging species are also suitable. Proposed trees in rear gardens are more exotic. Given the nature of soil, it is recommended that a wider palette of street trees is planted. Planting tree pit details should include the incorporation of fresh topsoil and planting practice should conform to BS8545 2014-Trees:from nursery to independence in the landscape-Recommendations..
- 15) A landscape and bio-diversity management plan to provide for existing ash trees (overwhelmingly of an uncertain future as a result of Chalara) and other species within the central hedge is proposed. It is not clear what role this hedge is to take within this proposed development. Whilst it is perceived as a valuable asset in its own right from an ecological and bio-diversity perspective, and indeed it has an aesthetic function, it has not been actively managed and (with exception) has low arboricultural value. Whilst the hedge contains an understory of plum/blackthorn and contains several trees of merit, it is not clear how such a hedge is to be managed into the future. Its relationship with end users (adjacent inhabitants/children) etc must be taken account of and described.

- 16) All new planting (trees, hedges, hedgerows etc) must have deer proof fencing. It is known that deer inhabit this area and they could decimate new unprotected tree/woody plant planting.

There is no doubt that should this proposal be built, it will change the local nature of the landscape from its current light touch/unmanaged position to the construction of 69 dwellings and all associated construction. However, generous provision of open space and 'buffer planting' is proposed in line with the NPPF. Similarly, long term tree protection (through the use of permanent knee rails and the encouragement of bramble etc) to deter potential negative impact should result in large/old/important trees which can continue to grow on this site.

Currently there is no formal public access within the site. Should this status change following any planning permission, such valuable landscape assets (veteran/ancient/valuable) trees could be enjoyed by more people. There is little/no new tree succession outside established hedgerows. The proposed development will incorporate a generous tree planting proposal package. It is important that new trees are planted for the future. It is not clear how this succession would happen if the land were left in situ.

### **Tree Officer – revised / additional comments**

*29th January 2019*

Following receipt of response to many of the above further CBC requests for updated information, clarification, adjustment of tree protection, working methods, the CBC Tree Section has the following response:

For ease of understanding, the above points are addressed as per their previous order:

- 1) The systematic appraisal of the ancient/veteran/notable/heritage status of the trees has been assessed using the RAVEN system in an attempt to make a systematic value judgement of their status. Clear demarcation lines of a tree's veteran status is not a succinct, quantifiable matter. Value judgements are required. Previous surveying of their status by the applicant's well qualified and experienced arboriculturist produced different results. However, the current FLAC designations are reasonable and there is no significant objection of the findings/designations. However tree T3014, whilst of comparatively small girth does have several characteristics synonymous with veteran status and certainly is an "old" tree with charm and significant amenity value. It is proposed to remove this tree. Whilst this is regrettable, this is the only tree which has such value which is proposed to be removed.
- 2) There are locations where the Root Protection Area (RPA) and the Veteran Tree Buffer (VTB) are to be marginally infringed by development. However such infringements are not considered significant and in most instances, the RPA/VTB has afforded significant extra protection of land/rooting area around other parts of the trees. Indeed in such cases, adjusted working practices are to be adopted and design amended to help further reduce impact.
- 3) Alleyway to rear plot 49-51 is one such example of adjusted design and consequential insignificant impact.
- 4) Recommendation of CBC trees has been incorporated into Landscape Strategy drawing no 18125.101.
- 5) Land has now been protected during the course of construction as requested.

- 6) Removal/pruning of off-site cypress hedge has not yet been confirmed. However such detail could be agreed as a part of any request for approval of reserved matters or through private agreement. It is important that such pruning/removal is undertaken to reduce shade into the site as well as enable new and improved growing environment of proposed new trees.
- 7) Pruning not yet agreed. This could be undertaken by future owners through execution of common law right to prune and the need for permission to prune from this council.
- 8) Shade analysis has been submitted. There would be significant (but not apparently unreasonable) shade on plots 1-5, 6-9 and plot 31. All such significant shade would be when the trees are in leaf. There are differing degrees of shade which would be cast on the rear gardens of plots 1-5 at different times of day. Plots 6-9 would have differing degrees of shade cast on the rear of the building at different times of day. Plot 31 would have significant shade on the property during the early morning only. To summarise, it appears to be acceptable. Some potential future occupants may specifically desire degrees of shade within their properties.
- 9) Suggestion adopted as per MHP Landscape Strategy drawing.
- 10) Thrust boring conditions have been considered suitable where appropriate.
- 11) Foundation design details would be agreed as a part of any reserved matters application.
- 12) The proposed public open space around T3015 is to be protected during construction as requested. However whilst most welcome from an arboricultural perspective, such protection will reduce storage space during the construction phase of this proposal. It must be noted that the proposed tree protection fence lines would be sacrosanct and no negotiation of these areas is considered likely should permission be granted and construction commence. The proposed arb supervision and monitoring should ensure that protection of all retained trees, hedges, spaces etc. is maintained throughout.
- 13) No response necessary.
- 14) An outline arboricultural management plan has been described on FLAC Tree Protection Plan (drawing no 38-1036.03-A of 19.12.18. Such management of existing and new trees (whether they be veteran, notable or whatever) should ensure their retention into the future.
- 15) There is aspirational protection of the majority of the existing hedge which bisects the site through the use of deterrent planting, as well as new alternative species planting in anticipation the demise of the existing ash trees within this hedge. This is acceptable in principle. However Trees officer concerns remain regarding the management of such a hedge within what is to be a residential site. It is anticipated that desire lines will be created into this hedge. Parts of this hedge could be vulnerable to damage and degradation leading to calls for what would now be considered inappropriate safety related pruning or tree removal which could reduce the function of the hedge in the first instance.
- 16) Deer proof fencing is proposed around new tree planting as requested.

To summarise, as previously stated, the current proposal will completely change the rural character of this site forever. However, significant assurances have been made regarding the proposed protection of trees and hedges to be retained during the construction phase and beyond. Proposed new tree and hedge planting has been broadly described which will help continue the arboricultural fabric into the future. It is hoped and expected that the

special status of the veteran oaks can be retained and indeed new public access should increase their appreciation. Similarly, it is hoped that existing large notable oaks will continue into veteran status. The overwhelming majority of these trees are to be located within public open space thus giving a special sense of public ownership. Much of the future success of this site is occupants' "buy-in" of the current most valuable arboricultural assets. Active short and long term management of the public areas will be essential so as to help ensure the intended green nature of the site is retained.

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

*31st October 2018*

Information supplied with this application, in the document C21505 Oakhurst Rise, Charlton Kings / FRA Rev K Oct 2018, adequately describes a feasible strategy for the management of surface water on and from the development site.

The strategy described will require further detail before development commences including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development.

Should permission be granted for this development it should be conditioned as follows:

#### Condition:

No building works hereby permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

#### Reason:

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

NOTE 1: The Lead Local Flood Authority (LLFA) will give consideration to 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.

## **CBC Housing Strategy and Enabling**

*7th November 2018*

### Level of Affordable Housing Provision

The Joint Core Strategy Policy (SD12) states that 'on sites of 11 dwellings or more, or sites with a maximum combined gross floor space of greater than 1000 sqm; a minimum of 40% affordable housing will be sought with the borough of Cheltenham'

This application will comprise of 69 residential units. Therefore at 40% we will be seeking 28 affordable housing units.

The latest SHMA that has been commissioned also requires a mix of 75:25 rented to intermediate housing.

### Dwelling Mix

Having regard to local needs we would seek the following mix of affordable dwellings on a policy compliant site:

<b>40%</b>	<b>Affordable Rented</b>	<b>Intermediate (s/o)</b>	<b>Total</b>	<b>%</b>
1 Bedroom 2P Apartments	6	0	6	21 %
2 Bedroom 4P House	6	4	10	36 %
3 Bedroom 5P House	6	4	10	36 %
3 Bedroom 6P House	0	0	0	0 %
4 Bedroom 7P House	2	0	2	7 %
<b>Total</b>	<b>20</b>	<b>8</b>	<b>28</b>	<b>100 %</b>

### Viability

The Joint Core Strategy states that where there is an issue relating to the viability of development that impacts on delivery of the full affordable housing requirement, developers should consider:

- Varying the housing mix and design of the scheme in order to reduce costs whilst having regard to the requirements of other policies in the plan, particularly Policy SD4, and the objective of creating a balanced housing market.
- Securing public subsidy or other commuted sums to assist delivery of affordable housing

If a development cannot deliver the full affordable housing requirement, a viability assessment conforming to an agreed methodology, in accordance with Policy INF6 will be required. Viability assessments will be published in full prior to determination for all non-policy compliant schemes except in exceptional circumstances when it can be proven that publication of certain specific information would harm the commercial confidentiality of the developer to no public benefit. Where necessary CBC will then arrange for them to be independently appraised at the expense of the applicant.

The council considers that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do so in the knowledge that this will be made publicly available alongside other application documents.

The council will allow for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Given the significant benefits associated with the availability of information to the public as part of the decision making process, and the other factors identified above, the councils anticipate that there would be very few exceptions.

If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The council will consider this carefully, with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case.

The viability of a site may enable additional levels of affordable housing to be delivered above the requirements set out in the Joint core Strategy. In this case the authority will negotiate with developers to find an appropriate balance to deliver affordable housing and infrastructure needs.

#### Dwelling Mix/Tenure

The intermediate housing should be shared ownership and we have proposed this as a mix of dwelling types as this best meets local needs.

Where possible affordable housing should be provided on-site and should be seamlessly integrated and distributed throughout the development scheme.

The design of affordable housing should meet required standards and be equal to that of market housing in terms of appearance, build quality and materials.

#### Rents

Affordable Rents must not exceed the Local Housing Allowance rate (the rents need to be set at 80% market rent or 100% LHA if this is less than 80% market rent).

#### Service Charges

Any service charges on the affordable dwellings should be eligible for Housing Benefit.

Service charges should be kept minimal this can be achieved through the design and we would be happy to refer you to RP's for further input if necessary.

#### Shared Ownership

The intermediate housing should be shared ownership and we would expect that the shared ownership units will be let at a level that is affordable, having regard to local incomes and house prices.

Provision should be made, where possible to ensure that housing will remain at an affordable price for future eligible households, or that subsidy will be recycled for alternative housing provision.

#### Car Parking

Parking provision for affordable homes will be expected to be made on the same basis as that provided for market dwellings.

### Affordable Housing Standards

We would expect all the affordable housing to meet minimum gross internal floor area size measurements, space, design and quality standards as described by the Homes and Communities Agency.

Amendments to M4(1), M4(2) and M4(3) of Schedule 1 to the Building Regulations 2010 took effect on 1st October 2015 therefore we would seek the following:

All general needs accommodation should be designed to meet the 2015 amendments of M4 (1) Building Regulations 2010.

All ground-floor flats or a proportion of dwellings (to be agreed) should be designed to meet the 2015 amendments of M4 (2) Building Regulations 2010.

Any wheelchair user dwellings would be required to be designed to meet the 2015 amendments of M4 (3) Building Regulations. As the gross internal areas in this standard will not be adequate for wheelchair housing, additional internal area would be required to accommodate increased circulation and functionality to meet the needs of wheelchair households.

There is no longer a requirement for a specific level of Code for Sustainable Homes Standard to be achieved to meet HCA standards for new affordable homes. This is therefore to be negotiated with the developer.

### Full Planning Application

On submission of a full planning/revised application we would require an Affordable Housing Plan as part of the application, detailing the location of both the market and affordable homes in terms of their type and size as well as highlighting parking spaces and the dwellings they serve.

### Registered Providers

All affordable housing should be provided by a Registered Provider who will be expected to enter into a nominations agreement with the Local Authority, providing 100% nominations on first letting/sale and 75% of all subsequent lettings thereafter and will be marketed by Help to Buy South. This will assist the Local Authority in meeting its statutory housing duties under the Housing and Homelessness legislation.

A list of Registered Providers managing accommodation in Cheltenham can be made available if needed.

### **Friends of Charlton Kings**

*20th November 2018*

Given the conflicting and often erroneous nature of the documentation associated with this latest application, we have only reviewed the application against our understanding of the latest NPPF guidance. We would note however that the overall quality of the documentation provided is low, with routine errors (quoting e.g. multiple access routes - there is only one, 'routine mowing of the grass preventing any ecological value to the site' - except no routine has been in place for at least 20 years, the 'empheral pond' - which has been in situ 12 months a year, since 1842, according to local maps. And the location and size of both ancient and veteran trees, which are inaccurately recorded and if properly mapped, would demonstrate that the site plan is not viable under currently planning guidance.

NPPF para 11: sites should be developed in accordance with the local plan, and otherwise permission cannot be granted, if the adverse impacts of doing so significantly and demonstrably outweigh the benefits. It remains our position that over or ill-considered

development of this unique site, particularly the adverse impact on 2 designated heritage assets and the unique ecological habitat and veteran and ancient trees, breaches this policy. That is the reason by the local plan stipulates a maximum of 25 homes in this location and we request that CBC uphold that position, as a minimum.

NPPF para 12: the development plan is the starting point for decision making. When a planning application conflicts with an up to date development plan, permission should NOT usually be granted. In an April appeal hearing, the planning inspector (ref APP/B1605/W/17/3178952) ruled that Cheltenham both had an adequate 5 year housing supply and that the JCS and emerging Cheltenham Local Plan was sufficiently mature to be given weight in decision making. He stated that "Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the JCS and the CLP." The local development plan is in final consultation and will be completed before this development is able to start; it limits this site to 25 homes, not 69.

NPPF para 43 notes that the right information is crucial to good decision making, particularly for example in habitat regulations. In this application, an accredited ecologist has been brought in 2 years into the process, and has fortunately identified some of the key protected features such as the Hedgerows Act designated important hedge down the centre of the site. However, they were only employed in September 2018 (i.e. after the time of year when any credible ecological evaluation could take place) and note that they are relying on the inaccurate and CIEEM unaccredited work that supported a previous (rejected) application. Given bats, reptiles, rare breed birds, badgers, protected orchids and protected grasses feature on this agricultural quality land (organic grassland untouched by pesticides or other chemical treatments in at least 20 years), we ask that CBC require their own independent and thorough ecological assessment to support decision making on this site.

Secondly, the transport data associated with the site has been demonstrated to be wrong over the last two years. We have previously provided our own detailed mapping and tracking data to demonstrate just how inaccurate the CTP data is (between 25% and 45% wrong, in every regard). We ask that CBC require their own independent transport and traffic surveying particularly of the Hales Road and London Road links to this proposed site, in order to get an accurate view of the impact of the proposed build.

Thirdly, it is notable that much of the information in 18/02171/OUT directly contradicts that in 17/00710/OUT (rejected) although there are also repeated references to previous reports from the old application, and some references to 100 or 91 homes in the current supporting documentation for this application; in many cases the linkage is so confused that it is impossible to provide comment.

NPPF para 62 notes that the type of affordable housing required should be identified to be met on site; this application claims it will provide affordable housing but is silent on what type and lacking in credibility in the distribution of said homes across the site (they appear to be entirely random). Given both primary and secondary schools and doctors surgeries in Charlton Kings are over capacity, without more information on the 'affordable housing' (low income / families / elderly / student accommodation), it is impossible to comment as to whether this application could be viewed favourably by local residents, or by CBC. It is also noted that the 20% below market rate headmark for 'affordable homes', if costed according to a Battledown postcode, could legitimately result in properties being priced in the multi million pound bracket. That is patently not what Cheltenham requires.

NPPF para 97: existing sports and recreational ground should not be built on (supported by local policy RE1, which protects local recreational facilities, and RC1, which prohibits development of land which serves a community purpose).

This land provides the district and county cross country course to Gloucestershire's primary school children, and has done so since at least 1960. There is nothing in national policy that limits sports or recreational grounds to playing fields, nor that cares about private ownership of the land. The recreational benefit is to the county, to school children and to local residents. Both Cheltenham's athletics clubs have provided strong objections to the loss of this facility, as has the headteacher of Balcarras school. The core of the NPPF is the production of a strong and healthy society - is there anything more foundational than a primary school cross country course that has been used by an estimated 40,000 children over the years?

The Cheltenham Local Plan documents the significant shortfall of sporting facilities in the borough - so why is there a plan to develop over an existing facility that is subject to such extensive county use? [We also contest the St Edwards School trustee statements that being allowed to build on their recreational land would provide more sporting facilities to the wider community; those cited in their letter of October 2018 already exist, and if St Edwards is to retain its charitable status as an independent school, they are obliged to make these existing facilities available to the wider community in the way they cite as offering future benefit only. It is self evidently untrue that community benefit will only derive from enrichment of the school trust, via the Carmelite Trust)

NPPF paras 102 and 103 cannot be met given the excessive gradient of Oakhurst Rise (used locally for mountain bike training). The transport plan isn't credible. Does an eBike convey with a property? What does a 3 year old do? What does an 80 year old do? This is a car only development and as such will place an exceptionally heavy traffic burden on the local communities and streets.

NPPF para 155 requires that development should be made safe for its lifetime without increasing flood risk elsewhere. That is not possible on this site given the proposed removal of trees and green landscaping in an area that actively manages surface water run off towards the Charlton Kings flood zone. There is no long term water management strategy, and some 'design features' such as the long "rill" down a 15\* hill towards a primary school playground would be distinctly dangerous if not properly maintained. Is CBC able to assure residents and school parents that they will actively manage this site once it is sold on?

Once again desk based assessments are being used to overrule local expertise on a site that has already been rejected 3 times on the basis that it will increase flood risk in the local area. Springs and ponds at the top of the site have been ignored, even though they are documented from the first builds in the locale back to the late 1800s.

NPPF para 170 requires that planning decisions should enhance the natural environment. This site is unique not just to the local area but also to Gloucestershire; a preponderance of rare mammals, birds, butterflies and plant life exist in an organic meadow. While there are claims that adding a 69 home estate will 'enhance' the biodiversity of the site there is no explanation as to why there will be more biodiversity than exists today; badgers are relocated close to farm animals and children, and there is no land management strategy for the retained green areas. Again, are CBC going to take on long term liability for this land, or will it become unkempt wasteland suitable only for further development?

NPPF para 170e requires prevention of existing development being put at unacceptable risk of water and noise pollution and land instability. All three tests fail; as documented extensively by local residents, development of this site fails to protect existing spring water, will dramatically change the noise landscape, and will exacerbate subsidence across Ewens Farm, Ashley Road and potentially the wider Battledown hill.

NPPF para 175e requires that development that results in the loss or deterioration of ancient or veteran trees should be refused. Despite claims to the contrary, the trees have been inaccurately mapped (in location and scale) in this application and at least one veteran tree is placed in a back garden, from where no future protection can be assured.

ALL veteran and ancient trees will be compromised under this design as there is road or building work within the designated crown perimeter and root protection areas of oak, ash and sycamore specimen trees.

NPPF para 180 requires development to mitigate and reduce to a minimum potential adverse impacts resulting from noise (this site will result in a transformed environment for primary school children who currently play and sleep in close proximity to the proposed building site, and have zero background noise during the school day). It requires CBC to identify and protect tranquil areas that have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; each and every child at St Edwards highlights this point as precious to them in their schooling - that's 400 children a year enjoying the privilege of silence - as identified in the on line leavers' video each year. And it requires that CBC limit the impact of light pollution on local amenity, intrinsically dark landscapes and nature conservation. The reason this site is so densely populated by nature is exactly that - it is dark, and it is silent.

NPPF para 190 requires that CBC avoid or minimize conflict between heritage assets' conservation and any aspect of the proposal. In addition to the harm to the setting of the Grade II\* Ashley Manor, the proposed development affects the water supply to, sustainability of (through impact on solar panel efficiency) and setting of the Grade II listed Charlton Manor. In addition the linkage between the ice house and Charlton Manor is severed despite the historical connection (from 1864) between these two heritage assets.

NPPF para 193 requires that great weight should be given to the conservation of heritage assets. This is irrespective of whether any potential harm amounts to substantial harm, total loss, or less than substantial harm to its significance.

NPPF para 194 requires that any harm to, or loss of, the significant of a designated heritage asset, including development within its setting, should require clear and convincing justification. Harm to grade II\* listed buildings should be wholly exceptional; Historic England have already stated in their commentary that the heritage harm is unacceptable.

The Friends of Charlton Kings position remains as before; that this is a special site to local residents, school children and, given its ecological sensitivity and heritage assets, to future generations. The concerns raised in the rejection of a previous application (which built on three previous rejections, including one by the Secretary of State for the Environment) have not been overcome by a change from 91 homes to 69, in 4 short months.

Assuming that it is not normal to be able to identify so much of the National Planning Policy Framework that is not met in one a single development proposal, we would ask that this is sent back to the drawing board for a more considered, technically accurate and locally advised review before being allowed to proceed.

Otherwise we would ask that Cheltenham Borough Council once again reject the application as having limited merits and local benefits, and causing very considerable harms.

**Sport England**

*31st October 2018*

Thank you for consulting Sport England on the above application.

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed

response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:  
[www.sportengland.org/planningapplications](http://www.sportengland.org/planningapplications)

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Par. 97 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:  
<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Sport England's Active Design Guidance: <https://www.sportengland.org/activedesign>

Please note: this response relates to Sport England's planning function only. It is not associated with our funding role or any grant application/award that may relate to the site.

## **Historic England**

*13th November 2018*

Thank you for your letter of 30 October 2018 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

### Summary

Historic England maintains their objection to the principle of development on this parcel of land. We consider the open green space to contribute significantly to the setting of the Grade II\* listed Ashley Manor.

### Historic England Advice

This application is a revised scheme following the refusal of application ref. 17/00710/OUT. Of the five refusal reasons was the 'significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest'. The less than substantial harm was afforded great weight in the planning balance as prescribed by paragraph 132 of the NPPF (the National Planning Policy Framework has since been revised and paragraph numbers have altered).

This resubmitted proposal has a reduced density but nevertheless remains a substantial housing development on grounds which contribute positively to the setting of Ashley Manor. It therefore does not alter or address our concerns as set out in our previous responses, and as such we maintain our objection to the principle of development on this parcel of land.

We remind the authority that Ashley Manor is Grade II\* listed, making it a heritage asset of the highest significance (as set out in the revised NPPF, 194). In line with NPPF policy 193, the asset's II\* listed status must be given great weight in the planning balance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

We attach our initial response to application 17/00710/OUT, dated 30 October 2017, for clarification.

#### Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 193, 196 and 200.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity. Please contact me if we can be of further assistance.

#### Comments on 17/00710/OUT, dated 30th October 2017

Thank you for your letter of 28 September 2017 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

#### Summary

Historic England does not support the principle of development on this parcel of land. We consider the open green space to contribute significantly to the setting of the Grade II\* listed Ashley Manor.

#### Historic England Advice

The villa at St Edwards School, known most recently as Ashley Manor, was built for Nathaniel Hartland (the single most important lender of money to builders in the Pittville development in Cheltenham). Its list description describes it as 'One of the finest villas in the Cheltenham area, its internal plasterwork is a particular feature for its diversity, depth and quality of composition.' The original approach to the house is from London Road to the south; the sinuous tree-lined drive remains largely unaltered. The Grade II listed boundary walls and gate piers (marking the entrance from London Road), and further into the grounds, the Grade II summerhouse and drive piers to the surviving carriage sweep are all remnants of this high-status, grandiose villa-house ensconced within its generous parkland

setting. Indeed, the topography of the site is significant; the land rises markedly from south to north, which would have been a conscious motive for siting this 'villa' style dwelling overlooking the town. This 19th century revisiting of ancient Classical-inspired villas was heavily influenced by Andrea Palladio's work of the 16th century. Palladio's villa suburbana (country houses purely for residential or leisure as opposed to agriculture), in particular the Villa Rotunda, gave rise to a vast tradition in villa architecture; these formative dwellings were conceived with a close relationship to their location. Of Villa Rotunda, Palladio wrote 'the site is as pleasant and delightful as can be found; because it is upon a small hill...it is encompassed by the most pleasant risings...and therefore...enjoys the most beautiful views from all sides'. The building rises out of the landscape and so does Ashley Manor in this very nature. So, whilst the principal elevation faces southwards, the siting of this villa, within its extensive, rising grounds is of, arguably, equal significance.

The outline application is for a residential development of up to 100 dwellings in the parcel of grassland to the north of Ashley Manor. The site forms an important green backdrop to the principal villa, rising northwards, and contains ancient trees, deer, and, as corroborated by the Archaeological Statement, the presence of a former ice house, taking the form of a tree-covered mound, undoubtedly ancillary to Ashley Manor. The site is therefore clearly associated, historically, with the villa - grounds of this extent would be expected with a high-status property.

Having visited the site, we are aware that significant modern additions (large school-related buildings, as well as landscape features such as the blue-topped playing surfaces) have eroded the historically isolated setting of Ashley Manor. Notwithstanding, the house (and associated school buildings) remains positioned within the extent of its historical grounds and the application site forms a key green buffer between the villa and later development to the north.

Central to our consultation advice is the requirement of the Planning (Listed Buildings and Conservation Areas) Act 1990 in Section 66(1) for the local authority to "have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses". In line with the National Planning Policy Framework 2012, planning authorities should look for opportunities for proposals within conservation areas and within the setting of heritage assets to enhance or better reveal their significance. Significance can be harmed or lost through development within its setting. As heritage assets are irreplaceable, any harm to their setting should require clear and convincing justification (para. 132). Only proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably (para. 137). Additionally, the desirability of sustaining and enhancing the significance of heritage assets is paramount when determining this application, whilst new development must make a positive contribution to local character recognising the positive contribution that the conservation of heritage assets can make to communities (paras. 131). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal (para. 134).

As we have acknowledged, recent school additions to the site have eroded the villa's setting to a degree. Nevertheless, the proposal will push development uncomfortably close to Ashley Manor. When approaching the house from its historical drive, the experience of the house set upon the slope of Battledown Hill remains appreciable, with this unspoilt land rising visibly beyond. Replacing this parkland behind with development will completely eradicate and undermine the significance and appreciation of the villa's historical relationship and siting within its conspicuous topographical setting and wider grounds. We therefore do not agree with the Heritage Statement (4.2.2) that the 'significance of the asset is principally derived from the architectural and special interest of the building...rather than from the wider setting and indeed the Site.' Loss of half of the villa's grounds - which form an important contribution to the original architectural and aesthetic design conception - will

adversely affect the significance of the heritage asset. As such, we do not support the application.

#### Recommendation

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 131, 134 and 137. In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

#### **Gloucestershire Centre for Environmental Records**

*28th November 2018*

Biodiversity report received.

#### **Battledown Trustees**

*20th November 2018*

On 30th October, you kindly advised me that you would be pleased to receive comments concerning the above planning application from the Trustees of the Battledown Estate, having officially designated us as 'Consultees' on the subject.

As all involved with this matter are well aware, this application is a re-hash of the 2017 application 17/00710/OUT for the construction of 100 homes, subsequently reduced to 90 homes. This new application is for 69 homes, some 21 homes (23%) fewer than the previous application.

From the voluminous documentation produced relating to the previous application and the already considerable documentation submitted for this re-hash, it is abundantly clear that none of the grounds on which the Trustees previously objected have been adequately addressed. Therefore, for good order's sake, we repeat them herewith:

The Land directly adjoins almost the entire length of the Estate's southern boundary and so any development thereon would directly affect a significant number of properties on the Estate. The Trustees make the following observations and objections to the proposed development:

1. Access: It is important that all parties are aware that no access to this Land is, or will be, permitted from Battledown Estate land and that the use of the Estate Roads is prohibited for the purpose of gaining access to the Land by any party connected with the proposed development, or any putative residents thereat, either before, during or after the completion of any such proposed development. It is necessary for the Trustees to make this clear to CBC, since various attempts to access the Land via the use of Estate Roads have been made in the past by parties associated with the Applicants and these attempts were made using misleading and inaccurate documentation issued by the Applicants solicitors.

2. The Trustees object to this application for the following primary reasons:

a) Considerable loss of privacy would be suffered by a substantial number of Estate properties and residents, owing to the proposed positioning and height of the dwellings on the Land adjoining the Estate boundary.

b) There would be noticeable degradation to the environment of the Estate owing to the significant increase in 'noise pollution' which would be generated by the proposed 69 dwellings, once completed.

c) There would be a material and dangerous increase in the risk of flooding for a number of Estate properties located in Ashley Road. In 2007, several Estate houses including some adjoining the proposed development land, were badly flooded; this situation can only be exacerbated by the proposal to cover such a large proportion of this Land with concrete, tarmac and buildings.

d) In common with many other residents in this area of Charlton Kings, all residents on the Battledown Estate would be affected by the massive and unacceptable increase in traffic which would inevitably result from the building of these proposed 69 homes, as such an increase in traffic would affect many roads in the area, including Sixways Junction, Hales Road, London Road, King Alfred Way and Athelney Way, as well as those narrow roads immediately adjacent to the proposed development site --- and the 'knock-on' effects would severely affect and inconvenience many hundreds of local residents in Charlton Kings and the eastern part of Cheltenham. In a nutshell, the local infrastructure and road system is already choked at peak periods and is simply inadequate for the existing number of dwellings, let alone the critical increase in traffic consequent upon the construction of a further 69 homes.

Furthermore, the Planning Officers and elected members of the Planning Committee will, no doubt, all have seen the other detailed objections already submitted which demonstrate that this application directly contravenes a multitude of the Borough Council's own Planning Policies as well as Gloucestershire's specifications for new streets. It would create severe and permanent dangers for both cyclists and pedestrians. Quite apart from the unacceptable gradients and road widths on the residential streets which are designated as Access to the Land, one should also appreciate that the application necessitates severe street gradients within the proposed development site itself. Nowhere in the Applicant's documentation is this highlighted as it should be; this appears to be yet another attempt (to add to all those perpetrated in 2017 and earlier in 2018) to pull the wool over the eyes of the Planning Committee members.

We also object on the grounds that the views of this area of Battledown as seen from the nearby AONB will be permanently blighted, in contravention of national planning regulations and, in this context, we support the strong objections made by Historic England on similar grounds.

From the very important perspective of Amenity, we object owing to the permanent and irretrievable destruction of a valuable outdoor sporting facility used regularly by children from all over Cheltenham and, indeed, Gloucestershire, together with the unacceptable additional strain that such a development would place on local GP surgeries and school places -- neither of which are able to meet the demand consequential upon such a dramatic increase in local housing.

Finally, it is also worth noting that this application directly contravenes the provisions contained within the Local Housing Development Plan for Cheltenham, approved by the Borough Council itself within the last few months. For this reason alone, it seems extraordinary that the Applicants have not already been advised that it would be unwise to pursue this re-hash of 17/00710/OUT.

There are many reasons to approve housing development schemes; however, the Trustees believe that any Planning Committee which might approve a scheme which does massive and irreparable harm to the local community and blights the environment of the existing electorate, whilst simultaneously satisfying the avaricious desires of a tiny group of wealthy developers, would be misguided in the extreme.

A significant majority of Borough Councillors on the Planning Committee rejected application 17/00710/OUT on 19th July 2018 for a large number of very good reasons. This latest re-hashed application singularly fails to address in a substantive manner any of the grounds for the previous application's refusal and, even worse, perpetuates much of the inaccurate and false information previously submitted by the developer's consultants.

Exactly the same multitude of planning considerations apply to this new application and therefore the Trustees anticipate and request that the same judgements will be made once again, to the clear benefit of the existing local communities in both Charlton Kings and the wider borough of Cheltenham.

### **Natural England**

*26th November 2018*

Thank you for your consultation on the above dated 30 October 2018 which was received by Natural England on the same day. We are grateful for the extra time to respond.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### **SUMMARY OF NATURAL ENGLAND'S ADVICE FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES - HABITATS REGULATIONS ASSESSMENT (HRA) REQUIRED**

Our advice in relation to the previous scheme applies (1). As submitted, the application could have potential significant effects on the Cotswold Beechwoods Special Area of Conservation (SAC). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- A mitigation strategy to avoid recreation impacts upon the SAC.

NB This should take account of our advice letter dated 22.8.18 (2) to the Joint Core Strategy planning authorities regarding information to inform HRA of such development proposals.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

Natural England's advice on other issues is set out below.

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(1) Natural England advice letter reference 243652 (26.4.18)

(2) Natural England advice letter 22.8.18 - 'Gloucester City, Cheltenham and Tewkesbury LPA areas - Evidence gathering in relation to recreation pressure on European Sites - Information to inform an interim approach to Habitats Regulations Assessment of planning applications'

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## ADDITIONAL INFORMATION REQUIRED

Internationally and nationally designated sites

The application site is within a zone of influence around a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The application site is within a zone of influence around the Cotswold Beechwoods Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as the Cotswold Commons & Beechwoods Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have (3). The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 63 and 64 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Following the recent 'People over Wind & Sweetman - v- Coillte Teoranta' case law (CJEU ref C-323-17) we advise that the Council takes account of the following advice in carrying out its HRA and proceeds to the 'appropriate assessment' (stage 2) of the HRA process.

Our advice letter dated 22.8.18 provides context in terms of up to date information to inform your approach to HRA regarding recreation pressure on European Sites in the three Joint Core Strategy authorities' area.

Considerations include:

- Distance between application site and nearest boundary of SAC
- Route to SAC/mode of transport
- Type of development (E.g. use class C3)
- Alternative recreation resources available - on site and off site
- Education and awareness raising measures e.g. inclusion within homeowner information packs of suitable information about the recreation 'offer' in the locality. This should include simple do's and don'ts regarding the sensitivities of local designated sites so that new residents can enjoy these resources while helping to conserve them for future generations.

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(3) Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially

affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

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Your appropriate assessment should also take account of:

- Adopted Joint Core Strategy policies
  - Policies SD9 Biodiversity & geodiversity, INF3: Green infrastructure and INF7

Developer contributions.

- Cheltenham Borough Plan policies
  - Emerging policies on Open Space and Green Infrastructure

Sites of Special Scientific Interest (SSSI) - further information required

The following SSSI lie within easy reach by car of the proposed development

- o Leckhampton Hill & Charlton Kings Common
- o Crickley Hill & Barrow Wake
- o Cleeve Common
- o Puckham Woods
- o Lineover Wood

Our advice above in relation to the Cotswold Beechwoods SAC applies similarly to these SSSIs. Provided that suitable safeguarding, education and awareness raising measures are incorporated into the proposed scheme we would not anticipate damaging effects on the notified features of these SSSIs. JCS policy SD9 and your emerging borough plan supporting text paras 10.27-10.29 refer.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Other advice

In addition, Natural England would advise on the following issues.

Protected Landscapes

The proposed development is for a site within the setting of a nationally designated landscape namely the Cotswolds AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the Cotswolds Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on 020 802 60939.

Should the applicant wish to discuss the further information required and scope for mitigation with Natural England, we would be happy to provide advice through our Discretionary Advice Service.

Please consult us again once the information requested above, has been provided.

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Annex A - Additional advice

Natural England offers the following additional advice:

#### Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

#### Protected Species

Natural England has produced standing advice (4) to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

#### Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance [Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website](#). If you consider the proposal has significant implications for further

loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

#### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geo-conservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found here (5). Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

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(4) <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

(5)

<http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>  
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#### Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

#### Environmental enhancement

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- o Providing a new footpath through the new development to link into existing rights of way.
- o Restoring a neglected hedgerow.

- o Creating a new pond as an attractive feature on the site.
- o Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- o Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- o Incorporating swift boxes or bat boxes into the design of new buildings.
- o Designing lighting to encourage wildlife.
- o Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- o Links to existing greenspace and/or opportunities to enhance and improve access.
- o Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
- o Planting additional street trees.
- o Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- o Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).

#### Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

#### Rights of Way, Access land, Coastal access and National Trails

Paragraphs 91 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.

#### **Natural England - revised / additional comments**

*23rd January 2019*

Thank you for your consultation on the above dated 12 December 2018 which was received by Natural England on the same day. We are sorry for the delay replying.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER MITIGATION REQUIRED TO SUPPORT THE COUNCIL'S CONCLUSION OF NO ADVERSE EFFECT ON THE INTEGRITY OF THE COTSWOLD BEECHWOODS SAC  
 The proposed mitigation could allow potential significant effects on the Cotswolds Beechwoods Special Area of Conservation (SAC)<sup>1</sup> when considered in combination with other residential development, as described in our advice letter dated 22.8.181 to the Joint

Core Strategy authorities. Natural England advises some further mitigation in order to conclude no adverse effect on the integrity of the SAC.

We welcome the Council's 'appropriate assessment' but advise that the proposed mitigation measures also include:

- The provision of suitable information about recreation opportunities in the area and the sensitivities of designated sites - to be included in a suitable new homeowner information pack.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure the relevant measures. Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained.

#### Further information regarding required mitigation

The Cotswolds Beechwoods SAC is currently being affected by increased recreation, partly due to housing growth across a number of districts. There is growing awareness of the potential for growth across Stroud District, Tewkesbury Borough, Gloucester City and the Cotswolds Borough to result in additional recreational pressures on the Cotswold Beechwoods Special Area of Conservation (SAC). This is reflected in the joint 'statement of co-operation' between the Joint Core Strategy LPAs and Natural England dated 2014. Our advice letter of 22.8.18 to the Joint Core Strategy local planning authorities refers.

#### Next steps

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

The appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of the SAC. It concludes this on the basis of the development proposal's distance from the SAC, its modest scale, the provision of on-site open space and proximity to alternative recreational resources.

Having considered the assessment, and the measures proposed to mitigate for the identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that in addition to the proposed on site open space a suitable 'homeowner's information pack' resource is secured providing information on recreation resources in the locality. This information need not be long or onerous. Pending agreement between the relevant LPAs on suitable content we propose the pack should reference:

- Alternative local recreation opportunities (off site). E.g. website information for Cotswolds AONB and recreation 'offer'
  - <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re Green Infrastructure strategy 'vision').

These mitigation measures should be appropriately secured in any permission given.

## **Environmental Health**

*20th November 2018*

After considering the documentation submitted as part of this proposal there are only very minor issues of concern from an Environmental Health perspective. As such I would recommend approval subject to the following condition being attached to any approved permission:

No development shall take place until a site specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include, but not be limited to:

- Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- Arrangements for liaison with the Council's Pollution Control Team.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Procedures for emergency deviation of the agreed working hours.
- Method of prevention of mud being carried onto highway.
- Waste and material storage.
- Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
- Measures for controlling the use of site lighting whether required for safe working or for security purposes.

## **GCC Section 106 Officer**

*28th November 2018*

Thank you for consulting on the above planning application. The application was assessed initially on the original scheme (17/00710/OUT) and various contributions were sought. The revised scheme is smaller, and the re-assessment accounts for this. The full assessment is provided below.

Based on current pupil product ratios, the scheme is likely to generate the following number of places:

Pre-school/nursery: 3.67. There is a need to expand provision within the local area, including throughout the Charlton Kings area of Cheltenham. The contribution required is **£53,316**

Primary School: 12.51 places. The nearest primary school is Holy Apostles which is at and forecast to remain over capacity. The contribution required is **£181,881**

Secondary School: 6.37 places. The nearest secondary school is Balcarras School which is also at and forecast to remain over capacity. The contribution required is **£141,229**

The nearest library is Charlton Kings Library. The Local Developer Guide (extracts attached) explains the reason and circumstances in which a library contribution is required. The contribution will be used to ensure that a level of provision at the library is sustained in the face of increased pressure from increased population and use. The contribution required is **£12,348**

Oakhurst Rise, Cheltenham

GL52 6JU

Planning Area 916	Estab	School Name	Distance (Miles/Walking route)	Building Capacity	Current NOR	Forecast					
						2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
1830	3316	Holy Apostles CofE Primary School	0.7	210	210	210	210	209			
2500	5408	Balcarras School *	1.2	1341	1406	1405	1407	1405	1384	1387	1386

## Community Infrastructure Requirements (Gloucestershire County Council)

### Summary

Planning Application            18/02171/OUT  
 Site                                    Oakhurst Rise  
 Proposal                            69 units incl 6 x 1 bed

Thank you for consulting GCC Infrastructure on the above application.

The scheme has been assessed for impact on various GCC infrastructure in accordance with the "Local Developer Guide" adopted 2014.

The Developer Guide is considered as a material consideration in determination of the impact of development schemes on infrastructure.

The assessment also takes account of CIL Regulations 2010 (as amended).

The scheme comprises the following number of dwellings:

Of these:            Houses:            45  
                          Flats:                18

The scheme will generate the need for **3.67** additional pre-school places. There is no additional capacity. Therefore a contribution is required: **£53,316**

The scheme will generate the need for **12.51** additional primary school places. There is no additional forecast capacity. Therefore a contribution is required: **£181,881**

The scheme will generate the need for **6.37** additional secondary school places. This includes Sixth Form. There is no additional forecast capacity. Therefore a contribution is required: **£141,229**

The scheme will generate additional need for library resources. A contribution is therefore required, in accordance with the GCC Local Developer Guide. The Library Contribution required is: **£12,348**

### Education Contribution: Justification

A full explanation is provided within the GCC publication "Local Developer Guide".

Paragraphs 65-78 provide further detail (available from [www.gloucestershire.gov.uk](http://www.gloucestershire.gov.uk))

Pupil yields are calculated in accordance with research published by GCC in "Child Yields in New Developments".

The cost per place (from 2016) is as follows:

Pre-school and Primary places: £14,541.00

Secondary 11-16: £18,779.00

Secondary 11-18: £22,173.00

*Multipliers are reviewed annually.*

*Where there is no identified surplus capacity in the forecast, a contribution is sought.*

*Where there is an identified surplus of places within the forecast this will reduce the contribution, or remove the need for a contribution entirely.*

#### Pre-school Contributions:

The assessment identified no capacity in the sector available. In accordance with the GCC Local Developer Guide, a contribution is justified as outlined above.

Specific Infrastructure: Provision within Battledown/Charlton Kings

Purpose(s): Towards additional pre-school places arising from the impact of the development.

#### Primary School Contributions:

The assessment identified no capacity in the sector available. In accordance with the GCC Local Developer Guide, a contribution is justified.

Specific Infrastructure: Holy Apostles Primary School and/or the provision of a new primary school

Purpose(s): Towards the provision of additional places at the named school(s).

#### Secondary School Contributions:

The assessment identified no capacity in the sector available. In accordance with the GCC Local Developer Guide, a contribution is justified.

Specific Infrastructure: Balcarras or new secondary

Purpose(s): Towards provision of additional places at the named school(s).

#### Library Contribution: Justification

A full explanation is provided within the GCC publication "Local Developer Guide".

Paragraphs 93 to 97 explain the principles for securing contributions towards libraries, and the specific purposes to which they will be put.

In this case, the proposed development and increase in population will have an impact on resources at the local library, as explained in the GCC Local Developer Guide.

Specific Infrastructure: Charlton Kings

Purpose(s): Towards additional library resources at the named library(ies)

#### Notes

1. Where the resulting number of dwellings varies from the number assessed, the contribution will be increased or decreased to reflect this:

Pre School	Per house	£984.00	Per flat	£301.00
Primary School	Per house	£3,622.00	Per flat	£367.00
Secondary School	Per house	£2,889.00	Per flat	£94.00

Libraries	Per house	£196.00	Per flat	£196.00
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2. The total expected child yield from this scheme is

Pre School	12.2
Primary School	13.4
Secondary School	6.2
16-17	2.0
Total	33.8

3. Age-restricted dwellings are not included in calculations (e.g. developments for people aged 55+)

4. Pupil Yields reflect the total child yield, and are adjusted downwards to take account of:

- a proportion of children will not attend the local school (e.g. due to private school attendance)
- a proportion of students will not stay on to 6th Form (staying on rates)
- take up of nursery places is based on local data.

5. The infrastructure items identified are those which are most likely to serve the development. In the case of schools, these are the nearest schools within reasonable distance. Library services contributions will relate to the nearest local library.

6. Phasing of payments will be by agreement. It will be expected to be paid in advance of the impact arising, to allow sufficient time for expenditure.

Payments will relate to identifiable triggers. The number of triggers/phases will depend on the scale of the development.

OTHER INFORMATIVES IF APPLICABLE:

Further information is available from the GCC Community Infrastructure Team

### **The Woodland Trust**

*27th November 2018*

The Woodland Trust is the UK's leading woodland conservation charity. The Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering around 24,000 hectares (59,000 acres) and we have 500,000 members and supporters.

The Ancient Tree Forum (ATF) is a charity which has pioneered the conservation of ancient and veteran trees and is the main UK organisation concerned solely with their conservation. The ATF seeks to secure the long-term future of ancient trees through advocacy of no further avoidable loss, good management, the development of a succession of future ancient trees, and seeking to raise awareness and understanding of their value and importance.

The Trust and ATF object to this application on the basis of deterioration, and in some cases loss, of a substantial number of ancient and veteran trees. It is of particular concern that a number of veteran trees within this site that are listed on the Ancient Tree Inventory (ATI) have not been considered by the applicants and have therefore not been afforded suitable protection.

Ancient and veteran trees are a vital and treasured part of the UK's natural and cultural landscape, representing a resource of great international significance. The number of

ancient and veteran trees on this relatively small site, including those forming part of a hedgerow, makes the site especially valuable for wildlife. The existing values will not be able to be sustained if the site is developed to this intensity as we consider that existing ancient and veteran trees will deteriorate and it will not be possible to provide for the continuity of appropriate trees that could become veterans of the future.

Natural England's standing advice for ancient woodland, ancient trees and veteran trees [1] states: "Ancient and veteran trees can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are irreplaceable habitats with some or all of the following characteristics."

[1] <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

"An ancient tree is exceptionally valuable for its: great age, size, condition, biodiversity value as a result of significant wood decay habitat created from the ageing process, and cultural and heritage value." It states further: "All ancient trees are veteran trees, but not all veteran trees are ancient. A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity, cultural and heritage value."

While the size or girth of a tree can be used as an indicator for it being a veteran specimen, such criteria should not be used as the sole determinant in its categorisation. Rather it is the tree's condition and the features that it displays, such as the presence of significant deadwood and hollowing, which should be considered in its determination as a veteran tree.

#### Planning policy

National Planning Policy Framework (NPPF), paragraph 175 states: "When determining planning applications, local planning authorities should apply the following principles:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;"

Exceptional reasons are defined in Footnote 58 as follows: "For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat."

The proposed development does not fit these criteria and as such should be refused on the grounds it does not comply with national planning policy.

Paragraph 5.4.12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 supports paragraph 175c of the NPPF stating: "Ancient woodland and veteran trees will be protected in accordance with the NPPF."

Cheltenham Borough Council has recently submitted the new Local Plan for inspection to the Planning Inspectorate. Within the Cheltenham Plan 'Policy GI3: Trees and Development' states the following: "Development which would cause permanent damage to trees of high value (Note 1) will not be permitted." Note 1 is defined in the following manner: "'High value' means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of a site or locality." Clearly, the ancient and veteran trees on this site fall within the Note 1 category.

#### Impact on ancient and veteran trees

The Trust has significant concerns in relation to the direct and indirect impact of the proposals on the population of ancient and other veteran trees within the development site. A distinctive feature of the site is the significant population of mature and large-girthed trees with distinctive habitat features important for wildlife. Many of these are listed on the Ancient Tree Inventory (ATI) as veteran trees, with two identified as ancient specimens, as detailed in the table below.

Tree no.	ATI no.	Species	ATI Categorisation	Grid reference
3007	167739	Oak	Veteran	SO9662021646
3008	167740	Oak	Veteran	SO9660521648
3010	167742	Oak	Veteran	SO9658821654
3014	167746	Oak	Veteran	SO9652021628
3015	167745	Oak	Veteran	SO9653121639
3018	167747	Oak	Veteran	SO9650321690
3021	167757	Ash	Ancient	SO9646021598
3022	167756	Oak	Veteran	SO9644021558
3023	167755	Oak	Veteran	SO9638221532
3025	167753	Oak	Veteran	SO9638121563
3026	167752	Oak	Veteran	SO9640321585
3027	167751	Oak	Veteran	SO9639621605
3028	167749	Oak	Ancient	SO9642421638
3030	167748	Oak	Veteran	SO9644521702
3031	167759	Oak	Veteran	SO9644921510

Trees can be vulnerable to the changes caused by nearby construction/development activity.

Development within the RPAs and/or canopy of ancient and veteran trees can result in adverse impacts as the tree's root system is adversely affected by soil compaction and direct root damage. The potential direct and indirect impacts of development on ancient and veteran trees are clarified in Natural England's standing advice, including:

- damaging roots and understorey (all the vegetation under the taller trees)
- damaging or compacting soil around the tree roots
- polluting the ground around them
- changing the water table or drainage of woodland or individual trees
- increasing the amount of pollution, including dust
- increasing disturbance to wildlife from additional traffic and visitors

Furthermore, new development close to such trees increases the targets and risks associated with people and property in proximity to them, thereby compromising their long-term retention.

The British Standards guidelines 'Trees in relation to design, demolition and construction (BS5837:2012)' clarify that construction work often exerts pressures on existing trees, as do changes in their immediate environment following construction works. Root systems, stems and canopies, all need allowance for future growth and movement, and should be taken into account in all proposed works on the scheme through the incorporation of the measures outlined in the British Standard. However, it is important to also consider the guidance within Natural England's standing advice when specifically taking the protection of ancient and veteran trees into consideration. This standing advice identifies mitigation measures that can be implemented where nearby development may result in impacts on ancient and veteran trees, including:

- putting up screening barriers to protect woodland or veteran trees from dust and pollution

- a buffer zone at least 15 times larger than the diameter of the tree, or 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter
- protecting veteran trees by designing open space around them
- identifying and protecting trees that could become veteran trees in the future

Standing advice also recommends that where possible, a buffer zone should:

- contribute to wider ecological networks
- be part of the green infrastructure of the area

It is also stated that including gardens in buffer zones should be avoided. Gardens of residential development are uncontrolled areas where permitted development such as sheds and patio areas will likely be incorporated. Therefore, the root systems of trees are likely to be affected where their buffer zones fall within garden areas. Many of the buffer zones of trees identified as veterans fall within gardens, contrary to this advice.

The need to ensure that ancient and veteran trees are afforded appropriate space for their long-term health is supported by the BS5837 guidelines which states in paragraph 5.2.4 that "particular care is needed regarding the retention of large, mature, over-mature or veteran trees which become enclosed within the new development" and that "adequate space should be allowed for their long-term physical retention and future maintenance". We note that although a number of veteran trees are shown retained in areas of open space, one such open space has also been identified as a site for the relocation of a badger sett. We do not consider that locating a badger sett in close proximity to veteran trees would be compatible with avoiding damage to the root systems of these trees.

Veteran trees typically feature significant deadwood habitat of great value for biodiversity, e.g. retained deadwood in the crown, broken/fractured branches and trunk cavities/wounds.

The level and type of usage of such a high density residential development will increase the health and safety risks associated with these trees leading to a requirement to manage them more intensively resulting in loss of habitat and/or consequential decline or removal.

Our concerns regarding increasing the risk that such trees pose is also supported by the guidance within David Lonsdale's 'Ancient and other Veteran Trees: Further Guidance on Management' (2013), which states in paragraph 3.5.2.1 "...avoid creating new or increased targets: as happens for example following the construction of facilities (e.g. car parks or buildings) which will bring people or property into a high risk zone. Not only does this create targets, it also harms trees and therefore makes them more hazardous".

The trees that we have highlighted in the table above are all listed on the ATI as ancient or veteran specimens. However, the following trees have not been recognised by the applicant as being veterans, numbers: 3008, 3010, 3014, 3015, 3022, 3023 and 3025. Of these it is proposed that number 3014 will be removed in order to facilitate the development. As the remainder of these trees have not been recognised as veterans they have not been afforded buffers/root protection areas (RPAs) in line with the recommendation in Natural England's standing advice, which states 15 times the stem diameter or 5m beyond the crown, whichever is greater. Therefore, it is apparent that numerous elements of the development, such as buildings, parking areas, pathways, roads and gardens will encroach on their RPAs. While a significant number of trees have not been recognised as veteran specimens, it is apparent that the trees that have been recognised as veterans by the applicant will still be subject to RPA encroachment by various elements of the proposed development.

The Trust requests that the council's tree officer takes both our comments and government guidance into consideration and ensures that the applicant applies a suitable buffer around the veteran trees identified on the ATI. Where development encroaches on the RPAs of

these trees the layout of the development should be altered to prevent such impacts. If this is not possible then the proposals should be refused planning permission as the encroachment and subsequent impact of the development on the trees' root systems would directly contravene local and national planning policy and government guidance.

It is essential that no ancient or veteran trees are damaged or lost on account of this development. The significant concentration of ancient/veteran trees within the development site means that loss or damage to any ancient or veteran trees would result in a reduction of available habitat for species reliant on dead and decaying wood habitat, i.e. saproxylic invertebrates, bats and certain species of birds. Ideally, notable trees should also be identified, retained and afforded significant buffers; while they may not represent the same level of value as ancient/veteran trees, they are likely to become veteran specimens if afforded appropriate space to grow and develop. In its current form the development would result in damage and loss to the ancient and veteran trees on the site, which would be highly deleterious to the wider environment of mature and veteran trees that may harbour rare and important species.

### Conclusion

Ancient and veteran trees are irreplaceable; the habitat that they provided cannot be re-created. Any development resulting in loss or damage resulting in the deterioration of ancient and veteran trees is unacceptable and every possible measure must be explored to ensure that such impacts are avoided as advised in Natural England's standing advice.

In summary, the Woodland Trust and the Ancient Tree Forum object to this application on the basis of potential damage, loss and deterioration of 15 ancient and veteran trees, as well as impacts on their long-term retention. While the applicant has recognised some of these trees as veteran we do not consider that they have fully recognised the qualities and importance of all the trees on site and appropriately categorised them as veterans. As such, a number of trees have not been afforded the suitable RPA that their veteran status warrants, leaving them vulnerable to adverse impacts.

As such, we consider that the application in its current form is unacceptable and directly contravenes both local and national planning policy and government guidance in relation to ancient and veteran trees.

We hope you find our comments to be of use to you. If you are concerned about any of the comments raised please do not hesitate to get in contact with us.

### **County Archaeology**

*30th October 2018*

Thank you for consulting me concerning the above planning application. I wish to make the following observations regarding the archaeological implications of this scheme.

I advise that in connection with a previous development proposal on this site a programme of archaeological desk-based assessment, geophysical survey and trial-trenching was undertaken. I note that reports on the results of these investigations are submitted in support of the current application.

No significant archaeological remains were observed during these investigations, and on that evidence it is my view that the application site has low potential to contain such remains.

In addition, I note that this planning application is supported by an assessment of an historic ice-house located in the eastern portion of the proposed development area. I note

from the current application details that the ice-house will be preserved within open ground, and will remain in situ and undisturbed should the development proceed.

Therefore, I confirm that in my view the proposed development will have no impact on archaeological remains, and I recommend that no further archaeological investigation or recording should be required in connection with this scheme.

I have no further observations.

## **Minerals and Waste Policy Gloucestershire**

*5th December 2018*

Please accept this correspondence as the initial view of the Minerals & Waste Planning Authority (M&WPA) for Gloucestershire concerning the aforementioned planning application(s).

All major planning applications (10 or more dwellings, residential sites of 0.5ha or more and other development in excess of 1,000m<sup>2</sup> or over 1ha) should be accompanied by an appropriately detailed Waste Minimisation Statement (WMS).

The production of a WMS is a specific requirement of the development plan for Gloucestershire as set out under WCS Core Policy 02 - Waste Reduction. It is needed to show how waste arising during the demolition (including site preparation), construction and occupation of development will be minimised and managed, and how recycling during the occupational life of the development will be provided for.

Full policy text and supporting information for WCS Core Policy 02 - Waste Reduction can be obtained online at: - <http://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-waste-core-strategy/>.

To support applicants preparing planning applications and assist decision makers in their consideration of waste minimisation matters, local guidance has been published - Gloucestershire Supplementary Planning Document: Waste Minimisation in Development Projects (WM-SPD).

The WM-SPD can be obtained online at: - <http://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/waste-minimisation-in-development-projects-spd/>.

Please note that a WMS is not the same as a voluntary Site Waste Management Plan (SWMP), although much of the information required for both is very similar. A significant difference of a WMS is the need to consider waste minimisation commitments, which go beyond the construction phase.

Where decision makers are satisfied that the waste minimisation matters of a particular proposal have and / or will be sufficiently addressed in accordance with WCS Core Policy 02 - Waste Reduction, the advice of the M&WPA is to attach relevant conditions to any subsequent planning approval that may materialise. Examples of conditions for outline, full and reserved matters applications can be found in Appendix F of the WM-SPD.

Not engaging or providing insufficient information in respect of waste minimisation matters could put at risk the acceptability of proposed development. The failure to address waste minimisation may be a reasonable ground for a decision maker to refuse planning permission.

The M&WPA for Gloucestershire reserves the right to submit an additional response(s) to that contained in this correspondence with respect of the aforementioned planning application(s).

If you have any further queries regarding this consultation response, please do not hesitate to contact the M&WPA for Gloucestershire via: - m&wplans@gloucestershire.gov.uk.

## County Ecologist

12th December 2018

### 1. Summary of recommendation

No observations and/or minor observations	
No objections, subject to conditions and/or informatives	✓
Further information and/or clarification required	✓ (HRA only)
Refusal (for the reasons set out below)	
Consider enforcement or other action	

### 2. Advice by topic

Item (Topic)	Coverage	General Observations
<p><b>Main relevant submissions:</b></p> <ul style="list-style-type: none"> <li>• Ecological Appraisal by Aspect Ecology dated October 2018</li> <li>• Bat Activity Surveys, revision 3 by All Ecology dated June 2018</li> <li>• Tree Assessment &amp; Inspection Survey for Bat Roost Potential (Dusk Emergence &amp; Pre-dawn Re-entry Surveys, Revision 4 by All Ecology dated June 2018</li> <li>• Planning Submission (Arboriculture) by FLAC dated October 2018</li> <li>• Landscape Strategy – Drawing 18125.101 Rev. D dated 16-10-18</li> <li>• Proposed Site Layout – Drawing PL005 dated</li> </ul>	Probably sufficient for an outline application	Suite of documents addressing ecological and related matters. The Ecological Appraisal usefully brings together all previous ecological work and clearly sets out mitigation and enhancement measures in Section 6.

October 2018		
<b>Designated Sites</b>	Cotswold Beechwoods Special Area of Conservation (SAC)	<p>This is about 8km away to the south west and there is potential for increased recreational disturbance to occur on this European Site. Given the recent ruling of 'People over Wind' and that mitigation measures are required to make sure this development is not harmful the Appropriate Assessment stage of HRA should be triggered. Air quality should not be an issue but may as well be considered within the Appropriate Assessment. The conservation objectives and draft supplementary advice for the SAC will need to be consulted by the LPA in its Appropriate Assessment. Latest but interim guidance from Natural England advises using the most up to date visitor surveys available. The Appropriate Assessment must consider the following:</p> <ul style="list-style-type: none"> <li>• Distance between application site and the nearest boundary of the SAC</li> <li>• Type of development – amount of new residents who might use the SAC for recreation</li> <li>• Alternative recreation resources available - on site and off site</li> <li>• Other residential developments</li> </ul> <p>The developer has submitted a document entitled 'Information to inform a Habitats Regulations Assessment' dated November 2018 from Aspect Ecology. This is relevant to the Appropriate Assessment that the LPA needs to carry out. In summary the developer's ecologist conclusions</p>

		<p>are that the development is unlikely to have an adverse effect on the integrity of the SAC.</p> <p>If the LPA after consulting Natural England is unable to conclude in its Appropriate Assessment that there would be no adverse effect on the integrity of the SAC then planning permission must be refused.</p>
	Cotswold Commons and Beechwoods Site of Special Scientific Interest (SSSI)	See above. It is Natural England's general view (and mine) that if potential significant effects on the SAC can be avoided then they would be on the SSSI too.
	Key Wildlife Site (KWS)	<p>Nearest is KWS is Glenfall Wood (almost 1km away to the east). Further distant is Ashgrove Meadow and Charlton Kings Railway Line to the south west and south.</p> <p>Development unlikely to significantly affect these KWSs if European Site (SAC) also deemed to be materially unaffected (see above).</p>
	Local or National Nature Reserve (LNR or NNR)	<p>Nearest LNR is Griffiths Avenue (about 4km to the west). Part of the Cotswold Commons &amp; Beechwoods is an NNR (so above comments apply).</p> <p>Development unlikely to significantly affect these sites if European Site (SAC) also deemed to be materially unaffected. (see above).</p>
	Regionally Important Geological Site (RIGS)	Development unlikely to significantly affect such sites. None are nearby.
Conservation Road Verges (CRVs)	As in current version of the Highways Authority's register	<p>Nearest CRV is Colegate Farm, Dowdeswell.</p> <p>Development unlikely to significantly affect it.</p>
Priority Habitats	Hedgerows	Hedge 1 is confirmed as being important if the Hedgerows Regulations methodology is used [as All Ecology] has

		<p>done. A section of this corner (up to 25%) will be lost to provide an access road and some housing. Hedge 2 is similarly affected in the NW corner of the site but not considered to meet the importance test under the Hedgerow Regulations. The retained substantive sections of these hedges will be retained as will much of the boundary hedging elsewhere. This is less impact than the previous 2017 scheme but still is a negative impact to consider. The landscape strategy drawing 18125.101 Rev D shows together with the ecological enhancements drawing 5487/ECO3 (Oct 2018) that there will be new planting to bolster what is a thin boundary in places and also add new tree/shrub planting within open space and around some of the buildings/gardens proposed.</p> <p>The development proposed will affect hedges of biodiversity value to birds, bats, badgers, possibly reptiles and a range of invertebrates. This will be a negative but quite short-term impact. The hedgerow breaks may cause some disruption for bats but looking at the proposed landscaping proposed and ecological enhancements this should not be significant given also control of unnecessary lighting. The negative impact can be considerably reduced further to a reasonably acceptable level if the boundary tree/shrub planting is implemented at or before the commencement of the development.</p>
Trees	Many	<p>Trees (including aged or veteran ones) on site.</p> <p>It is stated that all veteran trees and the majority of</p>

	<p>mature trees will be retained. At 4.6.3 of the Ecological Appraisal it is stated that appropriate buffer zones are to be used. This is 'at least 15 times the diameter of the trunk or 5m beyond the edge of the crown, depending on which is larger'. This accords with the most recent on-line government guidance. This is a crucial matter as retained trees could be vulnerable to impact on root zones and canopies.</p> <p>Comparing the proposals to aerial photography, Woodland Trust data and the submitted surveys (trees and ecology) there will be a negative impact but again as with hedgerows is smaller than with the 2017 scheme. Taking an ecological viewpoint the landscape proposals if implemented as soon as possible (especially with early bolstering of the boundaries with new planting) could mitigate the impact on trees as a habitat in the medium to longterm.</p> <p>It is crucial that the retained trees (the vast majority on site) are properly protected during the construction and occupation phases along the lines of government advice and British Standard 'BS 5837, Trees in relation to design, demolition and construction'. It is noted that in the latest Arboriculture submission (FLAC dated October 2018) the initial tree protection drawing at the back has not incorporated the latest landscape strategy proposals. However the drawing at the back of the arboriculture submission (38-1036.03 dated 23.10.18) does reflect the landscape strategy correctly (or so it seems).</p> <p>Conditions are needed to</p>
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		successfully implement the landscape strategy, tree protection and the arboricultural method statement. The latter will be challenging but seems achievable. Please note that this is from an ecological standpoint only and the LPA should also consult its tree advisor.
Other habitats / features of interest	Several	Scrub, semi-improved grassland, ruderal vegetation & standing water (temporary) occur in places. These will be lost or significantly affected but compensation for the biodiversity value (which is not especially high) is possible through the Promised landscaping / green infrastructure which is an improvement on the 2017 scheme.
European Protected Species (EPS)	Bats – Some common pipistrelles but a few soprano pipistrelles, noctules, serotines, <i>Myotis</i> species and lesser horseshoe recorded in the vicinity/nearby	A variety of species have been recorded on site and in the general area - which is to be expected given the location and habitat features on site. The surveys do not reveal a high bat value but certainly of some value. This conclusion should be treated with caution given the quality of habitats and habitat features present including large numbers of trees (including aged & veteran) plus hedgerow connectivity. Not all roosting features present in the good number of the trees present were safe to fully inspect although no obvious entry into or out of tree roosts was indicated by activity surveys. Tree 6 is considered as an occasional minor roost of low conservation significance. This tree is to be retained. All trees to be removed (not that many) should be re-inspected for bat roosting evidence before felling (condition). The site certainly has value for commuting and foraging bats and there is some (low) possibility of roosts being

		<p>discovered in trees affected by the development. The proposals will sever hedgerow connections (see above) but the existing boundaries will be enhanced plus additional habitat created that will provide foraging habitats for bats.</p> <p>A sensitively designed lighting scheme (is however essential to ensure commuting routes around the boundaries and much of the new habitat is not compromised by illumination which will probably be needed for the residential development type proposed (although not absolutely essential). Designing a good lighting (or no lighting) scheme will be challenging but not impossible to achieve as a reserved matter. The scheme must ensure that the majority of the new landscaping/habitats areas and the existing boundary are available for bats to use.</p> <p>It is noted that additionally some bat boxes (tubes) will also be provided so that roosting opportunities will be as good if not better than the current situation (see ecological enhancements drawing 5487/ECO3 dated Oct. 2018). Overall a small short-term negative impact on bats is the worst case scenario but in the long-term a positive outcome is likely.</p> <p>Measures MM1, MM2, MM3, MM4, MM5, MM6, EE1, EE2, EE3, EE4 &amp; EE8 are appropriate and relevant here.</p>
	Dormouse	Unlikely to be present and the development is unlikely to significantly affect them.
	Great crested newt	Unlikely to be present and the development is unlikely to significantly affect them.
	Otter	Unlikely to be present and the development is unlikely to

		significantly affect them.
EPS Licensing & the 3 derogation tests [Habitats Regs 2017]	Although quite unlikely given the revised proposals the need for a bat licence cannot be completely ruled. There is only a low risk of an unknown roosts being discovered just prior to or during felling works.	If the assertions of the ecological assessments are correct then the 3 derogation tests in the Habitats Regulation do not need to be considered. See 'Bats' above.
Other Protected Species	Water vole	Unlikely to be present and the development is unlikely to significantly affect them.
	Badger	Activity is currently present on this proposed development site and is detailed in a separate confidential appendix (Aspect Ecology October 2018) that has been submitted to the LPA. The revised proposals for badgers are now more favourable for this species. A package of monitoring with an ability to remedy ineffective mitigation could be effective on this site with the given layout density and footprint is required. A licence from Natural England will be required to authorise the intended mitigation strategy for badgers. Additionally mitigation measures MM7 plus the proposed enhancement measures EE1 and EE2 (in Ecological Appraisal) as part of a landscaping and after-care management scheme should be sufficient to make the development acceptable.
	Reptiles	Reptiles such as slow worms or common lizard are likely to only be present in low numbers on this site. Given the area that would be temporarily impacted then it is good to see the production of a precautionary mitigation

		measure (MM8) plus enhancements (EE2, EE6 & EE7) proposed. There is likely to be a positive benefit to reptiles in the long-term.
	Nesting birds	A good variety of birds are present in the general area and on site mainly utilising the boundary trees and hedgerows. There are much potential nesting sites present but much of this will be retained. Measures MM1 MM2, MM9, EE1, EE2, EE3, EE5 are protective and beneficial for birds. In the long term the development would likely to have a short term small adverse impact but in the long-term a positive outcome is likely.
	Invertebrates	A number of species have been recorded in the vicinity but none are rare. A reasonable invertebrate assemblage is likely to be associated with the trees, scrub and hedgerows. The presence of old trees with some rotting wood is an important feature for some not common invertebrates. Compensation for lost habitat and enhancement for invertebrates is offered. Measures MM1, MM2, MM6, EE1, EE2, EE3, EE6, EE7 and EE8 are appropriate and relevant for invertebrates. Overall the development is likely to be beneficial for invertebrates.
Priority Species	Hedgehog	Likely to use hedgerows and nearby gardens. Overall with the mitigation measures MM1, MM2, MM7 and enhancement measures EE1, EE2 and EE7 the proposed development is unlikely to affect the local population which is likely to be conserved or possibly enhanced given there will be gardens also which may have additional accessible habitat.
Mitigation/Compensation/Enhancement included?	Yes	The mitigation/compensation and enhancement proposals

		are set out as measures in Section 6 of the Ecological Appraisal. Mitigation measures MM1 to MM9 and enhancement measures EE1 to EE8 are appropriate and relevant to the site and development.  Enhancements include extensive native tree/shrub planting, new wildflower grassland, creation of wetland habitat, bat and bird boxes, and also features for reptiles, amphibians and invertebrates.
Further information/action including survey work required before determination?	Yes	Cheltenham Borough Council needs to complete an Appropriate Assessment of this development proposal.
Planning conditions?	Yes	See below
Informatives (Advice Notes)?	Yes	See below

### 3. Additional Comments

If this development is allowed and does not commence before the end of September 2019 then there is a need to repeat some of the ecological surveys of the site. This is in accordance with British Standard BS 42020:2013. This requirement is included in one of the recommended conditions below.

On the previous development proposal for this site (17/00710/OUT) I advised that fewer units across the site, more retention of trees and hedgerows and a different footprint might be less adverse to biodiversity. This was because it could be more confidently mitigated as well as provide definite net gains. The proposal provides overall a much improved quantity of green space.

### 4. Assessment against Legislation, Policy and Guidance Considerations

All relevant legislation, policy and guidance considerations have been taken into account as part of this response, including as relevant the following:

- *Wildlife and Countryside Act 1981 (as amended)*
- *The Conservation of Habitats and Species Regulations 2017*
- *Countryside and Rights of Way Act 2000 (as amended)*
- *Natural Environment and Rural Communities Act 2006*
- *Protection of Badgers Act 1992*
- *Hedgerow Regulations 1997*
- *ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System*
- *National Planning Policy Framework*
- *Planning Practice Guidance*  
<http://planningguidance.communities.gov.uk/blog/guidance/>
- *Natural England's Standing Advice*
- *Biodiversity – Code of practice for planning and development BS 42020:2013*

## Recommended Action

A. Before this application can be determined the LPA must complete an Appropriate Assessment which is Stage 2 of Habitats Regulations Assessment (HRA). This must be sent to Natural England to see if they agree with its conclusions before it is confirmed. A conclusion of no adverse effect on a European Site's integrity would have to be confirmed to make the development acceptable in law.

If given consideration of all matters the LPA is minded to grant consent for this outline development then the reserved items such as the following below are recommended:

*1. The development shall be implemented in accordance with the Tree Protection Plan incorporating an Arboricultural Method Statement which is drawing 38-1036.03 dated 23.10.18. All protective structures installed shall be maintained until construction work has been completed. No materials, soils, or equipment shall be stored under the canopy of any retained tree or hedgerow within the application site.*

*Reason: To prevent unnecessary loss of amenity and biodiversity value of trees and shrubs to be retained in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 17, 109 and 118.*

*2. No development shall take place until a Lighting Scheme is submitted to the Planning Authority for approval. The Scheme is to be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated October 2018. The scheme shall include the following details:*

- (a) the position, height and type of all lighting;*
- (b) the intensity of lighting and spread of light as a lux contour plan;*
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux;*
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.*

*The approved scheme shall be implemented for the duration of the development and maintained in accordance with the manufacturer's recommendations and scheme details.*

*Reason: To ensure that foraging and commuting of bats is not discouraged at this location and in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 109, 118 and 125 and Section 40 of the Natural Environment and Rural Communities Act 2006 which confers a general biodiversity duty upon Local Authorities whilst exercising their functions.*

*3. Prior to the commencement of the development hereby permitted including ground works and vegetation clearance a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.*

*Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include final details of the following items:*

### Ecology

*(i) Badger Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated October 2018.*

(i) Mitigation measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM4 (Soft-felling of Trees), MM5 (Re-installation of any affected existing Bat Boxes), MM7 (Wild Mammal Safeguards), MM8 (Reptile & Amphibian Safeguards) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated October 2018.

(ii) Mitigation measure MM3 (Updated Surveys) based on the Ecological Appraisal by Aspect Ecology dated October 2018.

(iii) A plan to identify all vegetation including trees to be retained on site and details of their protection as shown on or based on the Tree Protection Plan incorporating an Arboricultural Method Statement which is drawing 38-1036.03 dated 23.10.18.

#### Other Items

xvi) [insert relevant text here for other items as deemed necessary, e.g. hours of working, visual impact, dust, noise, water management, travel plan, management of hazardous substances]

*Reason: To protect the local environment including its landscape and biodiversity value in accordance with Local Plan Policy X and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.*

4. No later than 3 months following the commencement of the development a Landscape and Ecological Management Scheme based on the Landscape Strategy drawing 18125.101 revision D dated 16-10-18 shall be submitted to and approved by the Planning Authority. The scheme shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for and control of some public access;
- (e) A work and maintenance schedule for 5 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures;
- (g) Organisation or personnel responsible for implementation of the scheme.

*The Scheme shall also include details of the legal and funding mechanisms by which the long-term implementation of the scheme will be secured by the developer with the management body responsible for its delivery. The scheme shall be implemented as approved by the Planning Authority.*

*Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with Local Plan Policy X, ODPM Circular 06/2005 plus National Planning Policy Framework paragraphs 8, 170 and 175. This is also in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, which confers a general biodiversity duty upon Local Authorities.*

5. A Planning Obligation (S106) [Linked to recommended condition above] – Funding needs to be put in place to ensure the long-term conservation of landscaping and other installed features so that important biodiversity is conserved and enhanced. The funding arrangement must adequately cover the maintenance of habitats, trees, hedgerows and artificial biodiversity features.

6. Advice Note - *In relation to the County Council's Service Level Agreement with the Local Biological Records Centre and to assist in the strategic conservation of countywide biodiversity, all species and habitat records from the ecological work commissioned by the applicant should be copied [if not already] to the Gloucestershire Centre for Environmental Records (GCER).*

## **Conservation and Heritage**

*8th February 2019*

One of the core principles of the National Planning Policy Framework 2018 (NPPF) is heritage assets should be conserved in a manner appropriate to their significance. Chapter 16, paragraph 192 of the NPPF requires local planning authority to identify and assess the particular significance of any heritage asset... taking into account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Paragraph 193 of the NPPF states, "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance." Paragraphs 193-196 set out the framework for decision making in applications relating to heritage assets and this assessment takes account of the relevant considerations in these paragraphs.

Section 16(2) of the Planning (Listed buildings and Conservation Area) Act 1990 states that "In considering whether to grant listed building consent for any works the local planning authority... shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

The current application 18/02171/OUT is an outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration. The current application is an amendment of refused application 17/00710/OUT, an outline application for residential development of 90 dwellings including access, layout and scale, with all other matters reserved for future consideration.

There are a number of heritage assets that need to be considered within and around the proposal site. For clarity, due to the number of name changes reference to St. Edward's within these comments is intended refer to the Regency villa directly to the south of the site, now used as an administration building. It is grade II\* and described in its list description as one of the finest villas in the Cheltenham area. It forms a group with a number of other heritage assets on the school site including, boundary walls and gate to St. Edwards facing on to London Road, Summerhouse to the southwest of St. Edward's, a pair of piers at the carriage sweep of the southwest of St. Edward's, which are all grade II listed. The curtilage listed buildings of note are the icehouse to the north of the St. Edward's. Another notable heritage asset is Charlton Manor, a grade II listed building on the Battledown estate whose rear boundary directly abuts the site. An important consideration with this application is its impact on the setting of these heritage assets, particularly St. Edward's.

The heritage concerns previously raised over refused outline application 17/00710/OUT are not considered to have been adequately addressed by the current application, as the proposal has not meaningfully changed to address these concerns. Much of the previous heritage advice given on refused outline application 17/00710/OUT is reproduced here for reference as the concerns raised are still relevant.

### Impact on St. Edward's

It was previously stated in the conservation comments for outline application 17/00710/OUT that historically the setting of St. Edwards was a planned parkland within a wider rural landscape with the main access to it from London Road along an informal, winding driveway. It was recognised the way in which the heritage assets are experienced today has changed. The parkland setting has become compromised by the school use through modern additions to the rear, modern planting, sports facilities and other school related paraphernalia. The slow growth of the Battledown estate since the Victorian period to the north and east and the modern suburban development to the west has eroded the rural setting of St. Edward's by crowding it. This suburban development has a notable presence and often unwelcome visual intrusion around the edge of the existing curtilage of St. Edward's. The former wider rural setting has become significantly diminished as a result of this suburban development. However, it was previously noted in the conservation comments for outline application 17/00710/OUT that the St. Edward's retains an openness and its wider rural backdrop is still present to the north of St. Edward's, the location of the proposal site.

The conservation comments for outline application 17/00710/OUT noted the proposal site affects how the villa and its immediate parkland setting is experienced in its wider context. It was recognised the land to the north does not form part of the planned landscape of the villa but is important as incidental wider rural context to the planned parkland, its importance to the setting exaggerated by the topography, there being a notable slope where the application site is at a higher than St. Edward's. This rural setting is now almost lost due to the existing suburban development so it is considered important to protect what remains of it.

A concern was raised the proposed development would remove the last area of land that has a rural character and would notably further reduce the distance between suburban development and St. Edward's, appearing incongruously within its setting, made more prominent by the rising topography, a concern that remains over the amended outline application 18/02171/OUT.

The unacceptable impact of the proposed development on important views while travelling along the sloping driveway from beyond the entrance to St. Edward's raised within the previous application remain in the amended proposal. From the driveway the proposed development would form a conspicuous element, visible through the vegetation on the boundary, in an elevated position to the north, encroaching on how listed building and its parkland setting is experienced.

The current outline application 18/02171/OUT has amended the scheme to show a less dense form of development, most notably within the western side of the site and along the south-western boundary of the site. However, these amendments are not considered to adequately address the concerns previously raised. St. Edward's is still considered to be unacceptably crowded by the proposed development and key views within the site and outside the site are significantly compromised. There is still considered to be an unacceptably harmful impact on the setting of this grade II\* listed building.

### Impact on Icehouse

The conservation comments for outline application 17/00710/OUT stated, the icehouse to the north of St. Edward's is located below ground, above ground it is a mound with a number of trees growing on it, likely structurally compromising it. The icehouse appears to have been a functional structure set away from the villa within open fields, rather than being part of the planned landscape. However, this lower hierarchical status does not mean it has no historic interest. The icehouse is considered curtilage listed through its historic ancillary functional relationship with St. Edward's. It is therefore important to consider the impact of the proposed works on this curtilage listed building, its setting and its relationship with St. Edward's. The icehouse would have historically been accessed from the service side of the

villa and can be seen obliquely from the windows on the northern elevation of St. Edward's. Although its relationship with St. Edward's has to a degree been undermined by a modern single storey outbuilding and planting to its immediate north, their connection is not considered so significantly harmed that the relationship is severed.

The icehouse is still proposed to be retained within the current proposal. The current proposal is similar in terms of housing development to the previous scheme for outline application 17/00710/OUT. The amended proposal shows a slightly less dense form of development but with larger houses around the icehouse, creating a more spacious character to its setting, most notably to the south of the icehouse. However, while an attempt has been made to make a feature of the icehouse within the development the proposal is still considered to harm the relationship between it and St. Edward's.

Concern is raised over the impact of the proposed development on the immediate setting of the curtilage listed icehouse and on the separation this creates between it and the principal listed building. The separation of the curtilage listed building from St. Edward's as a result of the encroachment of dwelling houses, access roads and additional planting is still considered to nearly sever their connection and unacceptably compromise their rural setting. This impact is considered to harm the significance of these heritage assets.

#### Impact on Charlton Manor

The conservation comments for outline application 17/00710/OUT stated, Charlton Manor, Ashley Road is a grade II listed building located to the northeast of the site within the Battledown estate. Battledown was laid out in 1858 with Charlton Manor the first property to be built there in 1864. While the estate grew slowly into the late 20<sup>th</sup> century the area is typically characterised by large houses set back from the road on large plots.

As existing there are open fields and trees beyond the rear garden of Charlton Manor to the west and southwest. A concern was previously raised over outline application 17/00710/OUT for dense housing development to the immediate rear of Charlton Manor. The proposal was considered to result in the loss of views from the listed building and the proposed density of development was not in keeping with the generous plot and house sizes found within the Battledown estate. The proposal would result in excessive enclosure to the rear of Charlton Manor, adversely affecting the setting of the listed building.

Current outline application 18/02171/OUT has amended the scheme to show a less dense form of development around proposed house no. 35, which has a more generous garden size and denser vegetation on its rear boundary with Charlton Manor. However, while the impact of the proposed works will be somewhat diminished any benefit is superficial, there is still considered an unacceptably harmful impact on the setting of this grade II listed building. As the amended proposal does not sufficiently address the previous concerns.

#### Less than Substantial Harm

Due to the above concerns the proposal is considered to neither sustain nor enhance the affected heritage assets as required by paragraph 192 of the NPPF. It is therefore considered the proposed works would cause less than substantial harm to the significance of the affected designated heritage assets. Paragraph 194 of the NPPF states "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification."

Paragraph 196 of the NPPF states, "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use." It should be noted less than substantial harm is still unacceptable harm. Justification for the proposed development through a balancing exercise is therefore required to justify the proposal.

While it is considered there are notable public benefits to the proposal it is not considered these outweigh the harm caused to the significance of the affected heritage assets. The Planning Officer will need to carry out the exercise of weighing the public benefits of the proposal against the great weight that needs to be given to the affected heritage assets conservation, as required by paragraph 193 of the NPPF.

## 5. PUBLICITY AND REPRESENTATIONS

- 5.1 On receipt of the application, 335 letters of notification were sent out to individual addresses. In addition, a site notice was posted at the entrance to Oakhurst Rise and an advert was published in the Gloucestershire Echo. In response to the publicity, 158 representations have been received; 112 of which are in objection to the proposals. This is in contrast to the 309 objections received in response to the previous application.
- 5.2 All of the representations received during the course of the application have been made available to Members separately. The main objections raised in response to the proposed development reflect those raised in response to the previous application and include, but are not limited to:
- Site not currently allocated for housing
  - Overdevelopment / density
  - Inadequate access / increase in traffic / safety of pedestrians and cyclists
  - Loss of existing green space / cross country running facility
  - Impact on local community
  - Impact on wide variety of wildlife / protected species
  - Impact on local infrastructure – schools and GP surgeries already oversubscribed
  - Flooding and drainage / increase in surface water run-off
  - Adverse visual impact on AONB / reduction in landscape quality
  - Removal of trees and hedgerows
  - Noise and pollution during and after construction
  - Increased air pollution
  - Impact on setting of nearby Grade II and Grade II\* listed buildings
  - Overlooking / loss of privacy to neighbouring properties
  - Proximity to St Edward's Preparatory School
  - Contrary to Charlton Kings Parish Plan
- 5.3 The 43 representations received in support of the application mainly relate to the provision of much needed homes, including affordable housing; and the benefits to St Edwards School.

## 6. OFFICER COMMENTS

### 6.1 Determining Issues

6.1.1 The main considerations when determining this application for outline planning permission relate to the principle of developing the site for housing; access and highway safety; impact on the historic environment; removal of trees and hedgerows; landscape and visual impact; wildlife and biodiversity; design and layout; drainage and flooding; affordable housing and other planning obligations; and impact on neighbouring amenity.

### 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 planning permission must be determined in accordance with the

development plan unless material considerations indicate otherwise. This is reiterated in paragraph 47 of the National Planning Policy Framework (NPPF) which also highlights that decisions on applications should be made as quickly as possible.

6.2.2 Paragraph 11 of the NPPF sets out a “*presumption in favour of sustainable development*” which in decision making means:

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *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:*
  - *the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - *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.*

6.2.3 The development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (LP) wherein those policies are consistent with the NPPF; and adopted policies of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS).

6.2.4 Material considerations include the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG), and the emerging Cheltenham Plan (eCP) which was submitted to the Secretary of State for examination in October 2018.

6.2.5 Adopted JCS policy SD10 advises that in Cheltenham housing development will be permitted at sites allocated for housing through the development plan; and on previously developed land within the Principal Urban Area (PUA). Elsewhere, housing development will only be permitted where it is infilling within the PUA.

6.2.6 In this case, the site is not currently allocated for housing within the development plan nor previously developed land; however, the site is wholly located within the PUA of Cheltenham, outside of the Green Belt and Cotswolds Area of Outstanding Natural Beauty (AONB). The site is not the subject of any other designation that would rule out residential development in principle.

6.2.7 Furthermore, a Five Year Housing Land Supply Position Statement published by the Council in August 2018 confirmed that the Council is currently unable to demonstrate a five year housing land supply; the current five year housing land supply for Cheltenham is calculated at 4.6 years. As such, the housing supply policies in the development plan are out-of-date and the ‘tilted balance’ in favour of granting planning permission is triggered. The shortfall position in housing land supply is a significant material change in circumstance since the previous refusal of planning permission in July.

6.2.8 Officers acknowledge that the eCP which includes the application site as a potential land allocation for housing development is currently under examination, and that the timing of the determination of this application has been questioned. However, paragraph 49 of the NPPF states:

*in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely*

*to justify a refusal of planning permission other than in the limited circumstances where both:*

*a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and*

*b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.*

6.2.9 In this case, these circumstances do not apply and therefore a timely decision on the application must be made.

6.2.10 Additionally, it should be noted that the officer recommendation in respect of this particular application, taking into account all of the material considerations, would be to grant planning permission irrespective of the site being identified in the emerging plan or not.

6.2.11 It is also important to note that the 2018 refusal of planning permission did not relate to the principle of developing this site for housing, or suggest that development should be limited to any particular part of the site.

### 6.3 Removal of trees and hedgerows

6.3.1 Local plan policy GE5 (protection and replacement of trees) seeks to resist the unnecessary felling of trees on private land. In addition, policy GE6 (trees and development) advises that the planting of new trees and measures adequate to ensure the protection of trees during construction works may be required in conjunction with development. The policies are consistent with the aims and objectives of JCS policy INF3 which provides additional advice in respect of green infrastructure.

6.3.2 Paragraph 175(c) of the NPPF advises that planning permission should be refused for development resulting in the loss of ancient or veteran trees “*unless there are wholly exceptional reasons and a suitable compensation strategy exists*”.

6.3.3 Veteran trees are considered irreplaceable. The application site contains a number of private veteran trees together with a lesser number of ancient and notable trees, as identified on the Woodland Trust Ancient Tree Inventory. Many of the best quality trees within the site are protected by a Tree Preservation Order (TPO).

6.3.4 The first reason for refusal on planning decision 17/00710/OUT states:

*The proposed development would result in the loss of a significant number of trees within the application site, including a number of important TPO'd and veteran trees; the loss of which would fail to be outweighed by wholly exceptional reasons. The proposed layout would also fail to achieve the greater Root Protection Area (RPA) distances recommended by The Woodland Trust for the retained ancient and veteran trees.*

6.3.5 Standing advice published by Natural England and The Forestry Commission provides guidance in making decision on planning applications. The standing advice guides the LPA and developer to identify ways to avoid negative effects on veteran trees, such as redesigning a scheme.

6.3.6 The layout within this revised scheme has been significantly amended and now proposes to retain all but one of the large Veteran/TPO'd trees, together with much of the hedge line which crosses the site from north to south. The Tree Officer considers this

revised scheme to be more sympathetic than the previously refused scheme, and does not object to the development in principle; the detailed comments can be read in full at Section 4. Whilst the tree that is shown to be removed has some valuable characteristics and features of a Veteran tree, the Tree Officer considers this tree to be the least visually significant of the important trees on site.

6.3.7 Standing advice sets out that the weight given to ancient and veteran trees in planning decisions should be determined on a case-by-case basis, taking account of the NPPF and relevant development plan policies. If the decision is made to grant planning permission, planning conditions or obligations should be imposed to ensure the developer avoids damage, mitigates against damage or, as a last resort, compensates for any loss or damage. There are various mitigation and compensation measures set out in the standing advice which can be implemented in the construction of new development; and these could be secured by way of condition should members resolve to grant planning permission.

6.3.8 Although 'landscaping' is a reserved matter, the application is accompanied by a detailed Landscape Strategy which indicates the provision of high quality landscaping and new tree planting throughout the site.

6.3.9 Officers therefore consider that this revised scheme sufficiently overcomes the concerns previously raised in relation to the loss of trees.

#### 6.4 Historic environment

6.4.1 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 192 of the NPPF that advises that in determining planning applications, local planning authorities should take into account:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness.*

6.4.2 Additionally, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority (LPA), in considering whether to grant planning permission, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. In this case, it is the setting of the listed buildings that must be considered.

6.4.3 There are two listed buildings in close proximity to the application site; Charlton Manor, a grade II listed building located to the northeast of the site within the Battledown estate, and Ashley Manor, a grade II\* listed villa within the school grounds to the southeast. Additionally, an historic icehouse is also located within the application site itself. Whilst the site is physically separated from these listed buildings, there are clear views into the site from these heritage assets.

6.4.4 The proposed development would undoubtedly impact on the setting of these adjacent listed buildings, particularly Ashley Manor; albeit the setting of this building has already been significantly compromised by development within the school grounds.

6.4.5 During the course of the previous application, it was agreed by the Committee that any such harm would be 'less than substantial'. Where development proposals would lead to less than substantial harm to the significance of a designed heritage asset, paragraph 196 of the NPPF states that "*this harm should be weighed against the public benefits of the proposal*"; whilst also acknowledging the statutory duty to consider the desirability of preserving the setting of the heritage assets, as set out at paragraph 6.4.2.

6.4.6 PPG paragraph 020 (Reference ID: 18a-020-20140306) sets out that public benefits can be "*anything that delivers economic, social or environmental progress*" and should "*flow from the proposed development*" and "*be of a nature or scale to be of benefit to the public at large*".

6.4.7 Members, at the July committee meeting, did not agree with officers that the 'less than substantial' harm would have been outweighed by the public benefits arising from the previous scheme, and this is reflected in refusal reason 2 on decision 17/00710/OUT, which states:

*The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.*

6.4.8 Given the reduction in density and the omission of the large, three storey apartment block in the southwestern corner of the site, together with the retention of the Veteran trees, it must be acknowledged that the development now proposed would have a lesser, albeit still harmful, impact on the setting of the adjacent heritage assets.

6.4.9 The comments from the Conservation Officer in respect of this revised scheme have been duly noted but officers do not share their view that the proposal has "*not meaningfully changed*", or their conclusion in relation to the 'public benefit' balancing exercise. Officers consider that, even if affording significant weight to the 'less than substantial' harm to the setting of adjacent heritage assets, that the notable public benefits arising from this development would clearly outweigh that harm; namely:

- the contribution to the supply of housing within the borough to include the provision of 40% affordable housing (28 units); and
- the economic benefits that would result from development through the creation of construction jobs, and wider economic benefits to the Borough as a whole.

6.4.10 Members will therefore need to consider whether the harm arising from this revised proposal would now be outweighed by the public benefits, particularly given the material change in circumstance given the identified shortfall in housing land supply.

6.4.11 From an archaeological perspective, paragraph 189 of the NPPF advises that where a development site has the potential to include heritage assets with archaeological interest, developers should be required to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

6.4.12 The County Archaeologist previously advised that the wider locality surrounding the application site is known to contain extensive archaeological remains relating to settlement and activity of the prehistoric and Roman periods. As a result, the previous application was supported by an archaeological desk-based assessment, an archaeological statement regarding the 19th century ice house located in the eastern part of the application site, and the results of a geophysical survey. Subsequently, an archaeological field evaluation was also carried out on the site which comprised the

excavation of five trial-trenches. No significant archaeological remains were observed during the evaluation and, consequently, it was considered that the site has low potential to contain any remains.

6.4.13 The same reports have been submitted in support of the current application and the County Archaeologist has again confirmed that no further archaeological investigation or recording is required; acknowledging that the historic ice-house would be preserved within open ground, and would remain in situ and undisturbed should the development proceed.

## 6.5 Access and highway safety

6.5.1 The proposed access is one of the 'fixed' elements of this outline planning application.

6.5.2 Adopted JCS policy INF1 advises that planning permission will be granted only where the impacts of the development are not severe. The policy also seeks to ensure that all new development proposals provide safe and efficient access to the highway network; and provide connections to existing walking, cycling and passenger transport networks, where appropriate. The policy reflects the advice set out within Section 9 of the NPPF.

6.5.3 The suitability of the single access into the site via Oakhurst Rise was discussed in some detail at the July committee meeting and, as previously noted, was one of the reasons for refusal, which read:

*The proposed access via Oakhurst Rise would have an unacceptable impact on the local highway network, and the amenity of local residents. Additionally, the steep incline within the cul-de-sac would fail to encourage the use of sustainable modes of transport and would likely result in a reliance on the use of private motor vehicles. Alternative potential vehicular access routes do not appear to have been fully explored.*

6.5.4 This revised scheme has again been subject to a very thorough assessment by the County Council as the Local Highway Authority (LHA), in their role as a statutory consultee, and the full response can be found at Appendix 1. The application continues to propose access to the site via Oakhurst Rise as it is the most obvious route into the site. Whilst it was suggested by some members at the July committee meeting that an access through the school grounds from the London Road seemed feasible; officers do not consider that such an access would be achievable, not least because of the additional impact that would be caused to the setting of the grade II\* Ashley Manor. In any case, members must make a decision on the scheme that is before them.

6.5.5 Officers acknowledge the steep incline within Oakhurst Rise and have some sympathy for residents; however, as the LHA state, the cul-de-sac has safely served some 30+ residential dwellings for a number of years. It must also be recognised that the site is located within Cheltenham's PUA and, as such, must be considered to be a sustainable location; residential development surrounds the site to the north, east and west, with a large number of houses located uphill of the site.

6.5.6 The desire within the NPPF, and JCS policy INF1, to promote and encourage opportunities for sustainable modes of transport in new development, is clear but paragraph 103 of the NPPF identifies that opportunities to maximise sustainable transport solutions will vary depending on the site's location and that this should be taken into account in decision-making.

6.5.7 There is no clear guidance or advice as to what is a 'reasonable' walking distance. Planning Policy Guidance 13 (Transport), which has now been deleted, suggests that

*“Walking...offers the greatest potential to replace short car trips, particularly under two kilometres”*; however, the JCS, at paragraph 5.2.8, suggests a greater distance, stating that, where feasible, proposals should encourage individuals to walk or cycle for short distance trips of up to three miles (4.8 kilometres). The Sixways neighbourhood shopping centre is approximately 0.9 kilometres miles from Oakhurst Rise, with the Church Piece neighbouring shopping centre which provides additional facilities approximately two kilometres away; and whilst these distances don't take into account the topography of the route, the distances are within the reasonable walking distances set out above.

6.5.8 The LHA's response makes reference to a non-motorised user's assessment, which was undertaken to identify any shortfalls in pedestrian facilities and whether it would be reasonable to secure off site mitigation of the routes. Although the report identifies deficiencies in the surrounding walking/cycling network, only a small number of pedestrian crossing improvements are noted as being required, and these improvements could be secured by way of a suitably worded condition.

6.5.9 In light of the consistent advice from the LHA, despite the contrary views in representations, officers remain satisfied that the proposed access via Oakhurst Rise would be suitable to serve the development.

## 6.6 Wildlife and biodiversity

6.6.1 JCS policy SD9 and advice set out within the NPPF at Section 15 seeks to ensure that development contributes to, and enhances, the natural and local environment; 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.

### Cotswolds Commons and Beechwoods Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC)

6.6.2 It is known that residential developments, alone or in combination with other developments, have the potential to result in increased recreational pressures. Natural England's (NE) initial response to the revised proposals advised that, as submitted, the proposed development could have potential significant effects on the Cotswolds Beechwoods SAC, and that a mitigation strategy to avoid recreation impacts upon the SAC would be required. They advised that the Council proceed to the Appropriate Assessment stage (stage 2) of the Habitats Regulations Assessment (HRA) process.

6.6.3 Subsequently, an Appropriate Assessment (AA) of the proposal was undertaken, and forwarded to NE who are a statutory consultee. The AA concluded that, either alone or in combination with other plans and projects, the proposed development would not adversely affect the integrity of the SAC subject to conditions requiring the implementation of further precautionary measures.

6.6.4 In response, NE advised that they concur with the Council's conclusions within the AA providing that, in addition to the proposed on-site open space, a suitable 'homeowner's information pack' resource is secured providing information on recreation resources in the locality and the sensitivities of designated sites. This could be adequately dealt with by way of an appropriately worded condition.

### Protected species

6.6.5 The site is noted to host a variety of protected species. A report submitted by Gloucestershire Centre for Environmental Records (GCER) identifies that bats and badgers, amongst other species, have been recently sighted on or near the site. Additionally, the Ecological Appraisal (EA) that accompanies the application acknowledges the presence of these species.

6.6.6 Refusal reason 4 on the previous application states:

*The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the related sett. Generally, the development would have a negative impact upon biodiversity across the site.*

### Badgers

6.6.7 Badgers and their setts are protected under the Protection of Badgers Act 1992. An updated Badger Survey undertaken in October 2018 that confirmed significant badger activity on site; with one active sett, and two inactive setts found within the site.

6.6.8 The active sett and one of the inactive setts would be directly impacted by the proposed development; and, as such, it is proposed that both setts are permanently closed. In order to compensate for the loss of the active sett, which is likely to be of high importance to the local badger population, it would be necessary to construct at least one artificial sett elsewhere within the site. Badgers would need to be excluded from the existing sett prior to its closure, and these works would require a licence from NE.

6.6.9 NE in their standing advice acknowledges that replacement setts, whilst a last resort, can be a suitable compensation measure where setts would be destroyed; in addition to implementing mitigation measures for reduce the impacts.

6.6.10 CE consider the revised proposals in relation to badgers to be more favourable to the species than those previously proposed, and that the mitigation measures and ecological enhancements set out within the EA should be sufficient to make the development acceptable.

6.6.11 Although the future success of the artificial sett cannot be guaranteed, there are a number of cases where artificial setts have been successfully populated by relocated badger clans. The precise location and specific design of the artificial sett would need to be determined by a competent ecologist.

6.6.12 With the CE advice in mind, officers are therefore satisfied that the creation of an artificial sett within the site, together with maintained links to foraging grounds and other setts, and access to enhanced foraging resources, continues to be an appropriate compensation measure for the loss of the existing active sett. Further details in relation to the artificial sett, the phasing of the works, and a comprehensive package of mitigation measures could be secured as part of the reserved matters application.

### Bats

6.6.13 All bat species, their breeding sites and resting places are protected by law as they are European Protected Species. A variety of bat species have been recorded on site and within the wider area. CE concludes that *“Overall a small short-term negative impact on bats is the worst case scenario but in the long-term a positive outcome is likely”* and that

the mitigation measures and ecological enhancements set out within the EA are appropriate. A sensitively designed lighting scheme, secured by condition, would be required to ensure that commuting routes are not compromised by illumination.

### Birds

6.6.14 Nesting birds are protected by The Wildlife and Countryside Act 1981, and vegetation clearance should take place outside of the bird nesting season March to August, or the vegetation should be surveyed for nesting birds by a suitably qualified ecologist prior to works commencing.

6.6.15 The revised proposals would result in some loss of potential nesting sites but many of them would now be retained; mitigation measures and ecological enhancements set out within the EA are protective and beneficial to birds, and whilst the development is expected to have a small short-term impact, in the long-term, CE suggest a positive outcome is likely.

### Reptiles

6.6.16 Grass snakes and slow worms are protected by UK law. The GCER report identifies that a small number of grass snakes and, most recently, a slow worm have been recorded near the application site; the last recorded sighting was in 2016 in an adjacent garden in Oakhurst Rise. The submitted EA and CE consider the site to have a low potential for reptiles to be present; with CE suggesting that there is likely to be a positive benefit to reptiles in the long-term.

## 6.7 Landscape and visual impact

6.7.1 JCS policy SD6 advises that all development proposals must consider the landscape and visual sensitivity of the area in which they are located or which they may affect. As previously noted, the application site is not located within the Green Belt or Cotswold Area of Outstanding Natural Beauty, but does sit in an elevated position above the town.

6.7.2 At pre-application stage, an independent landscape appraisal was undertaken by a chartered landscape architect at the request of the LPA. In their appraisal, the landscape architect identified the site's topography and notable slope as a key landscape feature, and highlighted that, whilst it is not designated landscape, its elevated position affords views out across the town and provides the backdrop to a number of large properties within the Battledown Estate. Based on the information available to him at that time, the landscape consultant did not consider the site to be 'valued landscape' in terms of paragraph 170 of the NPPF which seeks to protect and enhance valued landscapes.

6.7.3 The NPPF does not define what is meant by 'valued landscape' but there is relevant case law on this subject. In this instance, officers do not consider that the site should be considered 'valued landscape' for the purposes of paragraph 170. Whilst the landscape clearly has a value attached to it, particularly by local residents, it is not considered to have any intrinsic features that specifically set it aside from other areas of non-designated landscape.

6.7.4 The final reason for refusal in July on the previous scheme reads:

*The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.*

6.7.5 Officers consider that the scale of development now proposed would have a far lesser impact on landscape character. The 23% reduction in the number of houses proposed in combination with the more informal layout, retention of a greater number of trees, increased levels of green space, and the indicative landscaping proposals, would ensure that the development would sit well within its context and integrate seamlessly into the existing landscape.

## 6.8 Design and layout

6.8.1 Layout and scale, together with the proposed access arrangements, are 'fixed' elements of the scheme; however, appearance is reserved for future consideration.

6.8.2 JCS policies SD3 and SD4 set out the design requirements for new development proposals. These policies seek to ensure that development proposals are designed and constructed so as to maximise the principles of sustainability, and to ensure that all new development responds positively to, and respects the character of, the site and its surroundings. The policies are consistent with advice set out within Section 12 of the NPPF which emphasizes at paragraph 124 that "*Good design is a key aspect of sustainable development...*"

6.8.3 Additionally, JCS policy SD11 highlights the need to ensure that new housing developments provide an appropriate mix of housing to meet the local needs.

6.8.4 The site layout now proposed has been redesigned to better address the constraints of the site, which has in turn reduced the number of houses from 90 to 69. The housing density across the site is now just 16 dwellings per hectare, with a lower density and larger plot sizes in the eastern part of the site to respond to the larger plot sizes and detached houses within the Battledown Estate and provide for an improved relationship with these properties.

6.8.5 Although paragraph 123 of the NPPF states that planning decisions should avoid homes being built at low densities, this site does not lend itself to high density housing due to the identified constraints; additionally, there are no minimum density standards set out within the development plan. As proposed, officers consider the layout and mix of housing would make the optimal use of the land whilst taking into account the identified constraints.

6.8.6 As previously noted, officers also consider the revised layout would improve its relationship with the nearby heritage assets. The only three storey building, which comprises apartments, is now located centrally within the site. The majority of the housing is two storeys, albeit some building heights increase to two and a half storeys to include loft accommodation.

6.8.7 The appearance of the housing is not a 'fixed' element of the scheme and has been reserved for future consideration; however, indicative house types and street scene drawings have been submitted which indicate a contemporary design approach across the site with high quality external finishes.

## 6.9 Drainage and flooding

6.9.1 Adopted JCS policy INF2 and Section 14 of the NPPF seeks to ensure that new development is not inappropriately located in areas at high risk of flooding, and to ensure that development does not increase flood risk elsewhere and, where possible, contributes to a reduction in existing flood risk.

6.9.2 The application site located in Flood Zone 1 and is therefore assessed as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). Additionally, the Environment Agency's Flood Risk Map below identifies the entire site as being at a 'very

low' flood risk from surface water flooding, although it does identify some areas in close proximity to the site that are at a higher risk of surface water flooding. The LLFA also acknowledge that there are significant surface water accumulations, and recorded incidents of flooding in the lower reaches of this catchment. It is therefore important to ensure that appropriate measures are provided to safely manage the flood risks arising from the increased run off from the development.

6.9.3 The application has been accompanied by a detailed Flood Risk Assessment (FRA) and drainage strategy which have been reviewed by the County Council, as the Lead Local Flood Authority (LLFA) responsible for managing the risk of flooding from surface water, groundwater and ordinary watercourses. The level of detail submitted to date is appropriate for an outline planning application.

6.9.4 The LLFA are satisfied that the information which accompanies this outline application *“adequately describes a feasible strategy for the management of surface water on and from the development site”* and raises no objection subject to a condition which requires additional detail, including a description of the maintenance strategy during and following construction for the lifetime of the development and a schedule for the implementation of the drainage scheme relative to the rest of the development, to be submitted and agreed at a later stage.

## 6.10 CIL and S106 obligations

6.10.1 Cheltenham Borough Council, together with the other JCS authorities, adopted the Community Infrastructure Levy (CIL) in October 2018, and introduced charging on 1st January 2019. This development would be liable for CIL.

6.10.2 CIL is now the tool to help local authorities to deliver infrastructure to support new development in the area, and is a tariff-style charge which is calculated per square metre of new development. In Cheltenham, the CIL rate for residential developments of between 11 and 449 dwellings is £200 per m<sup>2</sup>; however, there are some exceptions, for example, those parts of a development which are to be used as social housing, and self-build housing.

6.10.3 CIL sits alongside S106 agreements, which are still used to secure site-specific obligations which are needed to make a development acceptable in planning terms, particularly affordable housing.

6.10.4 Adopted JCS policy SD12 is the relevant policy for the provision of affordable housing in new developments. In Cheltenham, outside of Strategic Allocation sites, a minimum of 40% affordable housing is sought on sites of 11 dwellings or more. Where possible, the policy requires the affordable housing to seamlessly integrated and distributed throughout the development. The proposed scheme is compliant with the requirements of the policy.

6.10.5 As previously noted, the application now proposes 69 dwellings, 28 of which (40%) would be affordable. Having regard to local needs, the Housing Enabling Officer is seeking the following mix of affordable dwellings on the site:

<b>40%</b>	<b>Affordable Rented</b>	<b>Intermediate (s/o)</b>	<b>Total</b>	<b>%</b>
1 Bedroom 2P Apartments	6	0	6	21 %
2 Bedroom 4P House	6	4	10	36 %
3 Bedroom 5P House	6	4	10	36 %
3 Bedroom 6P House	0	0	0	0 %

4 Bedroom 7P House	2	0	2	7 %
<b>Total</b>	<b>20</b>	<b>8</b>	<b>28</b>	<b>100 %</b>

6.10.6 The above mix of housing would provide much needed affordable accommodation in this area. The Housing Enabling Officer previously identified that as of June 2018 there were 2,365 households on Homeseeker Plus of which 1,066 households are in need of family accommodation, and 391 of these have specifically selected an area of preference to Charlton Kings; however there is currently very limited availability and a low turnover of social housing properties within the Charlton Kings area.

6.10.7 The affordable housing provision would be secured through a S106 agreement.

#### 6.11 Impact on neighbouring amenity

6.11.1 Saved LP policy CP4 and adopted JCS policy SD14 seek to ensure that new development does not result in unacceptable harm to the amenity of adjoining land users and the locality. In addition, one of the core planning principles set out within paragraph 17 of the NPPF is to *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”*.

6.11.2 Whilst it is acknowledged that outlook from some neighbouring properties would undoubtedly be altered by the development, officers are satisfied that the proposed layout would not result in any overbearing effect, nor loss of privacy or outlook; all properties achieve the minimum 10.5 metres distance to site boundaries. Additionally, the topography of the site, distances to boundaries, and general arrangement of the housing would not result in any significant impact on daylight or sunlight.

#### 6.12 Other matters

##### Environmental Impact Assessment (EIA)

6.12.1 The Local Planning Authority was originally requested, in August 2017, to adopt a screening opinion to determine whether the proposed development on this site would constitute ‘EIA’ development, under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017; i.e. determine whether the project is of a type listed in Schedule 1 or Schedule 2 of the Regulations.

6.12.2 The proposed development is not Schedule 1 development. Additionally, whilst the development is listed in column 1 of Schedule 2 of the 2017 Regulations (Part 10 Infrastructure Projects, (b) Urban development projects), the proposed development does not exceed the following thresholds set out in column 2 of the Schedule:

(i) the development does not include more than 1 hectare of urban development which is not residential development;

(ii) the development does not include more than 150 dwellings;

(iii) the overall area of the development does not exceed 5 hectares.

6.12.3 Additionally, the site is not located within a “sensitive area” as defined by Regulation 2(1). Therefore, the proposed development is not Schedule 2 development and an EIA is not required.

##### Loss of existing green space / cross country running facility

6.12.4 Although the development would result in the loss of the existing green space which is used by the school for an annual firework display and for cross country running, it

is important to remember that this is private land; it is not a playing field or public green space. Additionally, the site does not accommodate a playing pitch or built sports facility. Sport England were consulted on the application did not wish to provide a detailed response as the development does not fall within their statutory or non-statutory remit.

## 7. CONCLUSION AND RECOMMENDATION

- 7.1 NPPF paragraph 38 advises that *“local planning authorities should approach decisions on proposed development in a positive and creative way...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”*.
- 7.2 Paragraph 11 sets out a presumption in favour of sustainable development and directs that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies within the Framework taken as a whole, or specific policies in the Framework indicate development should be refused. Given the current lack of a five year housing land supply, paragraph 11 provides a ‘tilted balance’ in favour of granting permission; and, as previously noted, this is a significant material change in circumstance since the previous refusal of permission last year.
- 7.3 The principal changes between the 2017 application and the current proposal are:
- A significant (23%) reduction in the number of houses proposed;
  - The retention of all but one of the large/Veteran trees and a significant portion of the hedgerow which crosses the site;
  - Additional provision of green space throughout the site;
  - The omission of the three storey apartment block in the southwestern corner of the site.
- 7.4 The adverse impacts that would arise from the development now proposed and the weight that officers have afforded them are as follows:
- Harm to the setting of designated heritage assets - moderate harm
  - Effect on the character and appearance of the landscape, which whilst not considered ‘valued landscape’, is of value nonetheless – limited harm
  - Relocation of badger sett – limited harm
- 7.5 It is therefore necessary to carry out a balancing exercise, to see if the adverse impacts identified above, would significantly and demonstrably outweigh the following benefits, taking into account the ‘tilted balance’ in favour of development.
- 7.6 The public benefits resulting from the development would be:
- A contribution to the supply of housing within the borough to include the provision of 40% affordable housing (28 units) – in light of the lack of a five year housing supply and the acute need for affordable housing in the local area, this must be afforded very significant weight.
  - The provision of employment within the construction industry for the duration of the development – only moderate weight can be afforded given the temporary nature of the development, albeit it would likely be for a reasonable time period.

- Potential land allocation for housing development in the emerging Cheltenham Plan – limited weight
  - School letter of support – limited weight
- 7.7 Having considered all of the material considerations, and carried out the necessary balancing exercise, officers are of the view that the benefits of this revised scheme clearly tip the balance in favour of granting planning permission.
- 7.8 The recommendation therefore is to grant planning permission subject to a signed S106 agreement to secure the affordable housing provision, and the following schedule of conditions:

## 8. CONDITIONS / INFORMATIVES

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.  
  
Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 Application(s) for approval of the reserved matters (appearance and landscaping) must be made not later than the expiration of three years from the date of this decision.  
  
Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 3 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.
- 4 Prior to the commencement of any works on site, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and shall:
  - a. specify the type and number of vehicles;
  - b. provide for the parking of vehicles of site operatives and visitors;
  - c. provide for the loading and unloading of plant and materials;
  - d. provide for the storage of plant and materials used in constructing the development;
  - e. provide for wheel washing facilities; and
  - f. identify routes for construction traffic.  
Reason: To minimise disruption on the public highway and adjacent land users and to accommodate the efficient delivery of goods and supplies during the course of the construction works in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework. Approval is required upfront because without proper mitigation the construction works could have an unacceptable highway impact.
- 5 Prior to the commencement of development, including ground works and vegetation clearance, a Construction Environmental Management Plan (CEMP) shall be submitted

to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include the following details:

#### Ecology

- (i) Badger Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated October 2018.
- (ii) Mitigation measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees, MM4 (Soft-felling of Trees), MM5 (Re-installation of any affected existing Bat Boxes), MM7 (Wild Mammal Safeguards), MM8 (Reptile & Amphibian Safeguards) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated October 2018.
- (iii) Mitigation measure MM3 (Updated Surveys) based on the Ecological Appraisal by Aspect Ecology dated October 2018.

#### Other

- (iv) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- (v) Arrangements for liaison with the Council's Pollution Control Team.
- (vi) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.
- (vii) Procedures for emergency deviation of the agreed working hours.
- (viii) Waste and material storage.
- (ix) Control measures for dust and other air-borne pollutants.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

- 6 Prior to the commencement of any building works above ground level, surface water drainage works shall be implemented in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. The information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, and to minimise the risk of pollution for the lifetime of the development, in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 7 Notwithstanding previously submitted details, prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage shall be implemented in accordance with the approved details prior to first occupation of the development

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 in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 8 Prior to the commencement of development, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated October 2018, and shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 9 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted to and approved in writing by the Local Planning Authority. 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 saved policies CP4 and CP7 of the Cheltenham Borough Local Plan (2006) and adopted policies SD4 and SD14 of the

Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 10 Prior to the commencement of development, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 11 No later than 3 months following the commencement of the development, a Landscape and Ecological Management Scheme, based on Landscape Strategy drawing no. 18125.101 D dated 16th October 2019, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for and control of some public access;
- (e) A work and maintenance schedule for 5 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures;
- (g) Organisation or personnel responsible for implementation of the scheme.

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with adopted policies SD6 and SD9 of the Joint Core Strategy (2017), paragraphs 8, 170 and 175 of the National Planning Policy Framework, and ODPM Circular 06/2005.

- 12 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 13 Notwithstanding the submitted details, prior to the commencement of any building works above ground level, details of a scheme for the provision and future maintenance of multi-functional green infrastructure to include areas of informal play shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development.

Reason: To ensure that the development makes a positive contribution towards green infrastructure and provides opportunities for play and recreation in accordance with

adopted policies INF3 and INF6 of the Joint Core Strategy (2017) and paragraphs 69 and 109 of the National Planning Policy Framework.

- 14 Notwithstanding previously submitted details, prior to the commencement of any building works above ground level, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number and location of all new trees and hedges to be planted; their species, size, spacing/density of hedges, root types, tree pit details (including details of introduced soil amelioration plans); and protection from deer and other predators as well as protection for the street trees from vehicles etc.

The scheme shall also include:

- a. a short, medium and long term management for all trees to be planted;
- b. details of the restoration and remedial surgery to parts of the existing hedge to be retained;
- c. details of the proposed pond in the communal open space to the south of the site; and
- d. wild flower strips in the public open spaces.

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

All soft landscaping shall be carried out in the first planting and seeding season following completion of the development or first occupation of the development (whichever is sooner). Any trees which within a period of 5 years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size or species unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with saved policies CP7, GE5 and GE6 of the Cheltenham Borough Local Plan (2006), 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.

- 15 All details of protection, working methods and practices etc. within the submitted FLAC report (Instruction Ref: SC38-1036) must be adhered to for the duration of the development. A retained arboriculturalist must be employed to oversee tree protection and workings in accordance with an Arboricultural Monitoring programme which shall include details of (i) person(s) to conduct the monitoring; (ii) the methodology and programme for reporting; and (iii) a timetable for inspections which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 16 Any works taking place within the root protection area of trees or adjacent to the site, shall be carried out by hand and no roots over 25mm to be severed without the advice of a qualified arboriculturist or without the prior written permission from the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint

Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 17 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework.

- 18 All paths, parking areas and other forms of hard landscaping that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig method as per the submitted drawings. Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 19 No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 20 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:

Monday to Friday - 8am to 6pm  
Saturday – 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays.

Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006) and adopted policy SD14 of the Joint Core Strategy (2017).

- 21 No external facing or roofing materials shall be applied unless in accordance with:

- a) a detailed written specification of the materials; and
- b) physical samples of the materials.

The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy CP7 of the Cheltenham Borough Local Plan (2006), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 22 No boundary treatments, including boundary walls, fences or other means of enclosure shall be constructed unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy CP7 of the Cheltenham Borough Local Plan (2006), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 23 Prior to first occupation of the development, the first 20m of the proposed access road, including the junction with the existing public road and associated visibility splays, shall be completed to at least binder course level.

Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 24 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:

- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB and recreation 'offer'
  - <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision').

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

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 25 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained for that purpose.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 26 Prior to first occupation of the development, leaf guards for the guttering and down pipes of the dwellings shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, and shall be maintained as such thereafter.

Reason: To reduce levels of tree-related inconvenience experienced by residents during the occupancy of the development.

- 27 Prior to first occupation of the development, the car parking associated with each building within the development (including garages and car ports where proposed) has been provided in accordance with Drawing No. 16.20.034 PL005 A, and those facilities shall be maintained available for that purpose thereafter.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 28 Notwithstanding the submitted details, the development hereby permitted shall not be occupied until a delineated at grade pedestrian corridor with a minimum width of 1.2m from parking bays 16-19 and 60-69 linking to the associated dwelling entrances have been made available for use for the duration of the development.

Reason: To ensure safe and suitable access to the site can be achieved for all users; to give priority to pedestrians and to address the needs of people with disabilities in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 29 Notwithstanding the submitted details, the development hereby permitted shall not be occupied until signing and lining has been provided adjacent to 19 Oakhurst Rise creating a T-junction ensuring that is clear for drivers where the major flow is to/from.

Reason: To avoid an unacceptable impact on highway safety by ensuring that it is clear for drivers where the major flow is to/from minimising the scope for conflicts between pedestrians, cyclists and vehicles in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 30 Notwithstanding the submitted details, the construction of the car parking associated with each building within the development (including garages and car ports where proposed) shall be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Reason: To ensure that the development incorporates facilitates for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

- 31 Prior to first occupation of the development, secure and covered cycle storage facilities for a minimum of one bicycle per dwelling shall be provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 32 Prior to first occupation of the development, the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling shall be completed to at least binder course level and the footway(s) to surface course level.

Reason: To avoid an unacceptable impact on highway safety by ensuring that adequate visibility is provided and maintained, and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles, is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 33 Prior to first occupation of the development, details of the proposed arrangements for the future management and maintenance of the proposed streets within the development shall have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and pedestrians, and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108, 110 and 127 of the National Planning Policy Framework.

- 34 Notwithstanding the submitted details, prior to first occupation of the development, pedestrian improvements for the installation of a connecting section of footway (2m wide) with tactile dropped crossing between Beaufort Road and Ewens Road (north side) and an extension to the footway (2m wide) and dropped kerb tactile crossing point across the Charlton Court Road cul-de-sac junction shall be carried out and made available for public use.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 35 Prior to first occupation of the development, the pedestrian dropped tactile crossing to the west of plots 1 & 69 shall be constructed in accordance with drawing ref. 16.20.034 PL005 A and made available for public use.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 36 Prior to first occupation of the development, the widening of the approach lane widths on the westbound A40 arm, adjustments to the kerb radius on the southbound Hales Road entrance link and the signal controller intervention (adding a UG405 / Mova unit to the existing ST900 controller and upgrading the connection to ADSL) shall be constructed in accordance with the approved plans.

Reason: To ensure that cost effective improvements are undertaken to the transport network that mitigate the significant impacts of the development in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 37 Notwithstanding the submitted details, prior to first occupation of the development, a bus shelter shall be provided, and made available for public use, for Bus Stop ID: glodtwmt located on Beaufort Road.

Reason: To ensure that appropriate opportunities to promote sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 38 Means of vehicular access to the development hereby granted shall be from Oakhurst Rise only.

Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 39 The forward visibility splays as demonstrated on Drawing No. CTP-16-332-SK22-B shall include no vertical features over 600mm high. These areas shall be kept clear of vertical features over 600mm high for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 40 The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The development will generate a significant amount of movement; and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 111 of the National Planning Policy Framework.

## **INFORMATIVES**

- 1 The applicant/developer is advised that to discharge condition 33 the local planning authority will require a copy of a completed dedication agreement between the applicant and the local highway authority or the constitution and details of a private managements and maintenance company confirming funding, management and maintenance regimes.

- 2 The proposed development will require the provision of a footway/verge crossing and the applicant/developer is required to obtain the permission of the County Council before commencing any works on the highway.
- 3 The proposed development will involve works to be carried out on the public highway and the applicant/developer is required to enter into a legally binding highway works agreement (including the appropriate bond) with the County Council before commencing those works.
- 4 The applicant/developer is advised to contact Amey Gloucestershire on 08000 514 514 to discuss whether the development will require traffic management measures on the public highway.
- 5 The developer will be expected to meet the full costs of supplying and installing the associated infrastructure.
- 6 The applicant/developer will require a badger licence from Natural England before carrying out works on site under the Protection of Badgers Act 1992.

<b>APPLICATION NO: 18/02171/OUT</b>		<b>OFFICER: Michelle Payne</b>
<b>DATE REGISTERED: 27th October 2018</b>		<b>DATE OF EXPIRY: 26th January 2019</b> (extended until 29th March 2019 by agreement with the applicant)
<b>WARD: Battledown</b>		<b>PARISH: Charlton Kings</b>
<b>APPLICANT:</b>	William Morrison (Cheltenham) Ltd & Trustees of the Carmelite Charitable Trust	
<b>AGENT:</b>	SF Planning Limited	
<b>LOCATION:</b>	Land Adjacent To Oakhurst Rise Cheltenham	
<b>PROPOSAL:</b>	Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT)	

## Update to Officer Report

### 1. OFFICER COMMENTS

#### Corrections

- 1.1. It has been noted that there is a need for a couple of corrections to the main report. Paragraph 6.4.9 should read *“even when affording”* instead of *“even if affording”*; whilst paragraph 7.6 should read *“The benefits”* instead of *“The public benefits”*.
- 1.2. In addition, paragraph 6.11.1 should read:

Saved LP policy CP4 and adopted JCS policy SD14 seek to ensure that new development does not result in unacceptable harm to the amenity of adjoining land users and the locality. In addition, paragraph 127 (f) of the NPPF (2019) highlights the need to *“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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”*.

#### Viability

- 1.3. The financial viability of the scheme has been questioned in relation to the offer of 40% affordable housing; suggesting that a financial viability assessment of the development is required to show that the development would be sound with the agreed level of affordable housing and necessary CIL contributions. However, planning practice guidance (Paragraph: 007 Reference ID: 10-007-20180724) advises that *“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable”*. A viability assessment would normally only be expected at the time of the decision where the applicant is suggesting that a policy compliant scheme would be unviable.
- 1.4. A 2016 appeal decision (APP/B1605/W/16/3152390) in respect of a residential development to the rear of the Nuffield Hospital, Hatherley Lane is particularly relevant in this regard. Paragraphs 22-24 of the Inspector’s report reading:

*22. The Council refers to saved Policies HS 4 and CP 8, however, there is nothing within these policies, or the Supplementary Planning Guidance made in 2004 and linked to policy HS 4, that supports the need for financial viability to be demonstrated where the requirement of policy are being met. Moreover, the national*

*Planning Practice Guidance (PPG) says in paragraph 16 regarding ‘Viability’ that “decision taking on individual applications does not normally require consideration of viability. However where the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary”.*

*23. In this case, the appellant does not argue that the requested scale of provision of affordable housing and other contributions will make the scheme unviable and a formal Unilateral Undertaking has been submitted to put that into effect. A material change in circumstances may result in the requirements of any formal agreement being reviewed and that would need to be considered on the individual circumstances at that time, and the fact that a scheme may have been shown to be viable earlier would not prejudice a subsequent review.*

*24. Overall on this issue I find that there is no support for the Council’s insistence on a financial viability assessment of the scheme now in either the development plan or the national planning guidance and the proposal now separately makes formal provision for affordable housing, and for education and library development in accordance with the relevant policies in the development plan. Moreover, there is no evidence before me to indicate that the terms of the Obligation do not meet the restrictions imposed in the NPPF and the CIL Regulations in terms of being necessary to make the development acceptable in planning terms; and being directly, fairly and reasonably related to the development. Nor is the evidence that the limit on pooled contributions would be exceeded. I can therefore take the Undertaking into account.*

1.5. The associated costs decision stating:

*7. Overall, I conclude that that the Council’s insistence on a financial appraisal to demonstrate viability at this stage, where the policy requirements are agreed and where no there is no submission that these should be reduced, flies in the face of clear and specific government guidance and has no sound planning justification. This constitutes unreasonable behaviour and has resulted in the appellant incurring, in part, additional costs.*

*8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.*

1.6. There has been no subsequent change to relevant local or national policy since 2016 that would suggest a different conclusion would now be reached.

Housing land supply

1.7. In response to the publication of the updated National Planning Policy Framework on 19th February 2019, the Planning Policy Team have provided the following statement:

*The August 2018 Five Year Housing Land Supply Position Statement sets out council’s most recent statement on its housing land supply figure. The final figure is calculated at 4.6 years.*

*Paragraph 73 of the NPPF (2019) sets out how to determine which buffer should be added to the five year housing land supply requirement. Cheltenham has been considered to have a recent history of under delivery and has applied a 20% buffer. This is reflected in the August 2018 statement.*

*However, on the 19 February 2019 the Ministry of Housing, Communities & Local Government published the Housing Delivery Test: 2018 measurement. The results*

*show that Cheltenham Borough has delivered 108% of its required homes over the past three years.*

*In accordance with paragraph 73 and footnote 39 of the NPPF (2019) Cheltenham Borough has not had significant under delivery of housing over the previous three years. This suggests that a 5% buffer should be applied to the five year housing land supply instead of 20%.*

*It remains unclear whether the change in buffer is appropriate and what impact this would have on the housing land supply in Cheltenham. Also, it is not possible to prejudge the outcome of the ongoing Cheltenham Plan examination which may alter the housing trajectory.*

*The Government has introduced an Annual Position Statement where local authorities can confirm their 5 year housing land supply position once in a given year. This requires an engagement process and an assessment carried out by the Planning Inspectorate. When this process is followed a minimum buffer of 10% will be used.*

*Given the uncertainty around the new position statement process, the novelty of the housing delivery test results and the ongoing Cheltenham Plan examination the council currently (21st February 2019) is unable to determine its five year housing land supply.*

#### Other matters

- 1.8. Officers would also like to provide the following clarification on a number of issues that have been raised in correspondence to Members:
- The Council's Conservation Officer has visited the site, the School Grounds, and viewed the site from Charlton Manor during the course of the previous application, ref. 17/00710.OUT; the Conservation Officer being present on Planning View in July last year. The Conservation Officer did not consider it necessary to revisit Charlton Manor when commenting on this revised scheme.
  - The heights of the buildings are not yet known, other than storey heights; as such, it is not possible to determine that the buildings now proposed would be higher than those proposed within the previously refused scheme.

## **2. RECOMMENDATION**

- 2.1. The recommendation remains to grant planning permission subject to a signed S106 agreement to secure the affordable housing provision, and the following revised schedule of conditions:

## **3. SUGGESTED CONDITIONS / INFORMATIVES**

Note: Condition 6 (now condition 4) and condition 11 set out in the main report have been updated.

- 1 The outline planning permission hereby granted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Application(s) for approval of the reserved matters (appearance and landscaping) must be made not later than the expiration of three years from the date of this decision.

Reason: To accord with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 The outline 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.

- 4 The application for approval of landscaping as a reserved matter shall include full details of the surface water drainage proposals; and the information submitted shall be in accordance with the principles set out in the approved drainage strategy. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works shall thereafter be implemented strictly in accordance with approved details, prior to the commencement of any building works above ground level.

Reason: To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, and to minimise the risk of pollution for the lifetime of the development, in accordance with adopted policy INF2 of the Joint Core Strategy (2017). The detailed surface water drainage proposals are required at reserved matters stage as they form an inherent part of the landscaping proposals.

- 5 Prior to the commencement of any works on site, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and shall:
- a. specify the type and number of vehicles;
  - b. provide for the parking of vehicles of site operatives and visitors;
  - c. provide for the loading and unloading of plant and materials;
  - d. provide for the storage of plant and materials used in constructing the development;
  - e. provide for wheel washing facilities; and
  - f. identify routes for construction traffic.

Reason: To minimise disruption on the public highway and adjacent land users and to accommodate the efficient delivery of goods and supplies during the course of the construction works in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework. Approval is required upfront because without proper mitigation the construction works could have an unacceptable highway impact.

- 6 Prior to the commencement of development, including ground works and vegetation clearance, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Any modifications to the approved details for example as a result of requirements of a protected species license must be submitted to and agreed in writing by the Planning Authority. The CEMP shall include the following details:

Ecology

- (i) Badger Mitigation Strategy based on Section 4.6 of the Confidential Badger Appendix by Aspect Ecology dated October 2018.
- (ii) Mitigation measures MM1 (Hedgerow & Tree Protection), MM2 (Veteran Trees), MM4 (Soft-felling of Trees), MM5 (Re-installation of any affected existing Bat Boxes), MM7 (Wild Mammal Safeguards), MM8 (Reptile & Amphibian Safeguards) and MM9 (Timing of Works to avoid Nesting Birds) based on the Ecological Appraisal by Aspect Ecology dated October 2018.
- (iii) Mitigation measure MM3 (Updated Surveys) based on the Ecological Appraisal by Aspect Ecology dated October 2018.

Other

- (iv) Procedures for maintaining good public relations including complaint management, public consultation and liaison.
- (v) Arrangements for liaison with the Council's Pollution Control Team.
- (vi) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites which shall be used to minimise noise disturbance from construction works.
- (vii) Procedures for emergency deviation of the agreed working hours.
- (viii) Waste and material storage.
- (ix) Control measures for dust and other air-borne pollutants.

Reason: To protect the local environment including its landscape and biodiversity value, to ensure that adequate mitigation/compensation measures are provided in order to safeguard protected species, and to reduce any potential impact on local residents, in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006), adopted policies SD9 and SD14 of the Joint Core Strategy (2017) and paragraphs 8, 170, 175 and 180 of the National Planning Policy Framework. This information is required up front because without proper mitigation the construction works could have an unacceptable impact on protected species and the amenity of adjoining land users at the beginning of construction.

- 7 Notwithstanding previously submitted details, prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage shall be implemented in accordance with the approved details prior to first occupation of the development

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 in accordance with adopted policy INF2 of the Joint Core Strategy (2017). Approval is required upfront as any works on site could have implications for drainage, flood risk and water quality in the locality.

- 8 Prior to the commencement of development, a Lighting Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on mitigation measure MM6 (Sensitive Lighting) within the Ecological Appraisal by Aspect Ecology dated October 2018, and shall include the following details:

- (a) the position, height and type of all lighting;
- (b) the intensity of lighting and spread of light as a lux contour plan;
- (c) the measures proposed must demonstrate no significant effect of the lighting on the environment including preventing disturbance to bats so that light falling on vegetated areas and features used by bats will be below or not exceed 2.0 lux; and
- (d) the periods of day and night (throughout the year) when such lighting will be used and controlled for construction and operational needs.

The approved scheme shall be implemented for the duration of the development and thereafter maintained in accordance with the manufacturer's recommendations and scheme details.

Reason: To provide adequate safeguards for protected species on the site, and to ensure that foraging and commuting of bats is not discouraged at this location, in accordance with adopted policy SD9 of the Joint Core Strategy (2017), ODPM Circular 06/2005, paragraphs 109, 118 and 125 of the National Planning Policy Framework and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 9 Prior to the commencement of development, plans showing the existing and proposed ground levels and slab levels of the proposed and adjacent buildings shall be submitted to and approved in writing by the Local Planning Authority. 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 saved policies CP4 and CP7 of the Cheltenham Borough Local Plan (2006) and adopted policies SD4 and SD14 of the Joint Core Strategy (2017). Approval is required upfront to allow the impact of the development to be accurately assessed.

- 10 Prior to the commencement of development, a method statement for the building foundation design, which takes account of existing soil types and adjacent trees so as to prevent future subsidence to new buildings and demands for the removal or heavy pruning of retained trees, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 11 No later than 3 months following the commencement of the development, a Landscape and Ecological Management Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on the Landscape Strategy drawing no. 18125.101 D dated 16th October 2019; include all of the Ecological

Enhancements set out within the Ecological Appraisal by Aspect Ecology dated October 2018; and shall comprise of a drawing and document that covers:

- (a) Aims and objectives of the scheme including conservation of protected and priority species and a net gain for biodiversity appropriate green infrastructure;
- (b) A plan with annotations showing the soft landscape, hard landscape, habitat, vegetation and artificial features to be retained, created and/or managed;
- (c) Measures (including establishment, enhancement and after-care) for achieving the aims and objectives of management;
- (d) Provision for and control of some public access;
- (e) A work and maintenance schedule for 5 years and arrangements for beyond this time;
- (f) Monitoring and remedial or contingency measures; and
- (g) Organisation or personnel responsible for implementation of the scheme.

Reason: To conserve and enhance the landscape and biodiversity value of the land and in accordance with adopted policies SD6 and SD9 of the Joint Core Strategy (2017), paragraphs 8, 170 and 175 of the National Planning Policy Framework, and ODPM Circular 06/2005.

- 12 Prior to the commencement of any above ground works, a scheme for the provision of fire hydrants (served by mains water supply) shall submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the hydrant serving that property has been provided.

Reason: To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with adopted policy INF6 of the Joint Core Strategy (2017) and paragraph 110 of the National Planning Policy Framework.

- 13 Notwithstanding the submitted details, prior to the commencement of any building works above ground level, details of a scheme for the provision and future maintenance of multi-functional green infrastructure to include areas of informal play shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the development.

Reason: To ensure that the development makes a positive contribution towards green infrastructure and provides opportunities for play and recreation in accordance with adopted policies INF3 and INF6 of the Joint Core Strategy (2017) and paragraphs 69 and 109 of the National Planning Policy Framework.

- 14 Notwithstanding previously submitted details, prior to the commencement of any building works above ground level, full details of a hard and soft landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify the number and location of all new trees and hedges to be planted; their species, size, spacing/density of hedges, root types, tree pit details (including details of introduced soil amelioration plans); and protection from deer and other predators as well as protection for the street trees from vehicles etc.

The scheme shall also include:

- a. a short, medium and long term management for all trees to be planted;
- b. details of the restoration and remedial surgery to parts of the existing hedge to be retained;
- c. details of the proposed pond in the communal open space to the south of the site; and
- d. wild flower strips in the public open spaces.

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

All soft landscaping shall be carried out in the first planting and seeding season following completion of the development or first occupation of the development (whichever is sooner). Any trees which within a period of 5 years, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size or species unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with saved policies CP7, GE5 and GE6 of the Cheltenham Borough Local Plan (2006), 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.

- 15 All details of protection, working methods and practices etc. within the submitted FLAC report (Instruction Ref: SC38-1036) must be adhered to for the duration of the development. A retained arboriculturalist must be employed to oversee tree protection and workings in accordance with an Arboricultural Monitoring programme which shall include details of (i) person(s) to conduct the monitoring; (ii) the methodology and programme for reporting; and (iii) a timetable for inspections which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 16 Any works taking place within the root protection area of trees or adjacent to the site, shall be carried out by hand and no roots over 25mm to be severed without the advice of a qualified arboriculturalist or without the prior written permission from the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 17 No trees, shrubs or hedges within the site which are shown to be retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed, without the prior written permission from the Local Planning Authority. Any retained trees, shrubs or hedges removed without such permission, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted, shall be replaced with trees, shrubs or hedge plants of a similar size and species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework.

- 18 All paths, parking areas and other forms of hard landscaping that fall within Root Protection Areas (RPAs) of the retained trees shall be constructed using a no-dig

method as per the submitted drawings. Prior to the commencement of development, full details of the proposed no-dig method shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented strictly in accordance with the details so approved.

Reason: To safeguard the retained trees in accordance with saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017) and paragraph 175 of the National Planning Policy Framework. Approval is required upfront to ensure that important trees are not permanently damaged or lost.

- 19 No tree and/or hedge clearance shall be carried out during bird nesting season (1st March to 31st August inclusive) unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has first been submitted to and approved in writing by the Local Planning Authority. Any such scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for protected species on the site in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraph 118 of the National Planning Policy Framework.

- 20 No construction works and/or ancillary operations which are audible at the site boundary shall be carried out on site outside the following hours:

Monday to Friday - 8am to 6pm  
Saturday – 8am to 1pm

There shall be no working on Sundays or Public or Bank Holidays.

Deliveries to, and removal of plant, equipment, machinery and waste from, the site shall only take place within the permitted hours detailed above.

Reason: To ensure that any impact on the amenity of the occupiers of adjacent dwellings is minimised and controlled in accordance with saved policy CP4 of the Cheltenham Borough Local Plan (2006) and adopted policy SD14 of the Joint Core Strategy (2017).

- 21 No external facing or roofing materials shall be applied unless in accordance with:  
a) a detailed written specification of the materials; and  
b) physical samples of the materials.  
The details of which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy CP7 of the Cheltenham Borough Local Plan (2006), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 22 No boundary treatments, including boundary walls, fences or other means of enclosure shall be constructed unless in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.

Reason: To ensure that the external appearance of the development is appropriate to its surroundings in accordance with saved policy CP7 of the Cheltenham Borough Local

Plan (2006), adopted policy SD4 of the Joint Core Strategy (2017) and guidance set out within Section 12 of the National Planning Policy Framework.

- 23 Prior to first occupation of the development, the first 20m of the proposed access road, including the junction with the existing public road and associated visibility splays, shall be completed to at least binder course level.

Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 24 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:

- Alternative local recreation opportunities (off site), e.g. website information for Cotswolds AONB and recreation 'offer'
  - <https://www.cotswoldsaonb.org.uk/visiting-and-exploring/>
- Relevant adopted Cheltenham, Gloucester and Tewkesbury JCS policy (e.g. INF3 green infrastructure) and supporting text (e.g. 5.4.6 re. Green Infrastructure strategy 'vision').

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

Reason: To ensure that appropriate measures to mitigate for any adverse effects to the Cotswold Beechwoods SAC that could potentially occur as a result of the proposal, are suitably addressed in accordance with adopted policy SD9 of the Joint Core Strategy (2017) and paragraphs 175, 176 and 180 of the National Planning Policy Framework.

- 25 Prior to first occupation of the development, refuse and recycling storage facilities shall be provided in accordance with a scheme which shall have first been submitted to and approved in writing by the Local Planning Authority. The storage facilities shall thereafter be retained for that purpose.

Reason: In the interests of sustainable waste management and recycling, having regard to Policy W36 of the Gloucestershire Waste Local Plan.

- 26 Prior to first occupation of the development, leaf guards for the guttering and down pipes of the dwellings shall be installed in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority, and shall be maintained as such thereafter.

Reason: To reduce levels of tree-related inconvenience experienced by residents during the occupancy of the development.

- 27 Prior to first occupation of the development, the car parking associated with each building within the development (including garages and car ports where proposed) has been provided in accordance with Drawing No. 16.20.034 PL005 A, and those facilities shall be maintained available for that purpose thereafter.

Reason: To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between pedestrians, cyclists and vehicles is provided

in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 28 Notwithstanding the submitted details, the development hereby permitted shall not be occupied until a delineated at grade pedestrian corridor with a minimum width of 1.2m from parking bays 16-19 and 60-69 linking to the associated dwelling entrances have been made available for use for the duration of the development.

Reason: To ensure safe and suitable access to the site can be achieved for all users; to give priority to pedestrians and to address the needs of people with disabilities in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 29 Notwithstanding the submitted details, the development hereby permitted shall not be occupied until signing and lining has been provided adjacent to 19 Oakhurst Rise creating a T-junction ensuring that is clear for drivers where the major flow is to/from.

Reason: To avoid an unacceptable impact on highway safety by ensuring that it is clear for drivers where the major flow is to/from minimising the scope for conflicts between pedestrians, cyclists and vehicles in accordance with policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 30 Notwithstanding the submitted details, the construction of the car parking associated with each building within the development (including garages and car ports where proposed) shall be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Reason: To ensure that the development incorporates facilitates for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

- 31 Prior to first occupation of the development, secure and covered cycle storage facilities for a minimum of one bicycle per dwelling shall be provided in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the opportunities for sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 32 Prior to first occupation of the development, the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling shall be completed to at least binder course level and the footway(s) to surface course level.

Reason: To avoid an unacceptable impact on highway safety by ensuring that adequate visibility is provided and maintained, and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles, is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 33 Prior to first occupation of the development, details of the proposed arrangements for the future management and maintenance of the proposed streets within the development shall have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason: To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and pedestrians, and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108, 110 and 127 of the National Planning Policy Framework.

- 34 Notwithstanding the submitted details, prior to first occupation of the development, pedestrian improvements for the installation of a connecting section of footway (2m wide) with tactile dropped crossing between Beaufort Road and Ewens Road (north side) and an extension to the footway (2m wide) and dropped kerb tactile crossing point across the Charlton Court Road cul-de-sac junction shall be carried out and made available for public use.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 35 Prior to first occupation of the development, the pedestrian dropped tactile crossing to the west of plots 1 & 69 shall be constructed in accordance with drawing ref. 16.20.034 PL005 A and made available for public use.

Reason: To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and secondly, so far as possible, to facilitating access to high quality public transport, in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 36 Prior to first occupation of the development, the widening of the approach lane widths on the westbound A40 arm, adjustments to the kerb radius on the southbound Hales Road entrance link and the signal controller intervention (adding a UG405 / Mova unit to the existing ST900 controller and upgrading the connection to ADSL) shall be constructed in accordance with the approved plans.

Reason: To ensure that cost effective improvements are undertaken to the transport network that mitigate the significant impacts of the development in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 37 Notwithstanding the submitted details, prior to first occupation of the development, a bus shelter shall be provided, and made available for public use, for Bus Stop ID: glodtwmt located on Beaufort Road.

Reason: To ensure that appropriate opportunities to promote sustainable transport modes have been taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraph 108 of the National Planning Policy Framework.

- 38 Means of vehicular access to the development hereby granted shall be from Oakhurst Rise only.

Reason: To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the conflict between traffic and cyclists and pedestrians in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 39 The forward visibility splays as demonstrated on Drawing No. CTP-16-332-SK22-B shall include no vertical features over 600mm high. These areas shall be kept clear of vertical features over 600mm high for the duration of the development.

Reason: To reduce potential highway impact by ensuring that adequate visibility is provided and maintained and to ensure that a safe, secure and attractive layout which minimises the scope for conflicts between pedestrians, cyclists and vehicles is provided in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 110 of the National Planning Policy Framework.

- 40 The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: The development will generate a significant amount of movement; and to ensure that the appropriate opportunities to promote sustainable transport modes are taken up in accordance with adopted policy INF1 of the Joint Core Strategy (2017) and paragraphs 108 and 111 of the National Planning Policy Framework.

## **INFORMATIVES**

- 1 The applicant/developer is advised that to discharge condition 33 the local planning authority will require a copy of a completed dedication agreement between the applicant and the local highway authority or the constitution and details of a private managements and maintenance company confirming funding, management and maintenance regimes.
- 2 The proposed development will require the provision of a footway/verge crossing and the applicant/developer is required to obtain the permission of the County Council before commencing any works on the highway.
- 3 The proposed development will involve works to be carried out on the public highway and the applicant/developer is required to enter into a legally binding highway works agreement (including the appropriate bond) with the County Council before commencing those works.
- 4 The applicant/developer is advised to contact Amey Gloucestershire on 08000 514 514 to discuss whether the development will require traffic management measures on the public highway.
- 5 The developer will be expected to meet the full costs of supplying and installing the associated infrastructure.

- 6 The applicant/developer will require a badger licence from Natural England before carrying out works on site under the Protection of Badgers Act 1992.



## Appeal Decision

Inquiry Opened on 20 August 2019

Site visit made on 19 August 2019

**by B J Sims BSc(Hons) CEng MICE MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 September 2019**

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**Appeal Ref: APP/B1605/W/19/3227293**

**Land at Oakhurst Rise, Charlton Kings, Cheltenham, GL52 6NR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by William Morrison (Cheltenham) Limited and The Trustees of the Carmelite Charitable Trust against the decision of Cheltenham Borough Council.
  - The application Ref 18/02171/OUT, dated 24 October 2018, was refused by notice dated 22 March 2019.
  - The proposed development is described in the original application as 'outline application for residential development of up to 69 dwellings (revision to application reference 17/00710/OUT')
  - The Inquiry sat for 4 days on 20 to 23 August 2019.
- 

### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

#### ***Rule 6 Party***

2. Charlton Kings Friends (CKF) were represented at the Inquiry under Rule 6 of the Inquiries Procedure Rules.

#### ***Outline Application***

3. The application and appeal are in outline but with matters of Access, Layout and Scale for consideration in detail at this stage.

#### ***Council Consideration, Amended Scheme and Basis of Decision***

4. Cheltenham Borough Council (CBC) officers recommended approval of the original submitted scheme for up to 69 dwellings but the Planning Committee refused the application for five reasons related, briefly, to planning policy, trees, heritage, ecology and visual impact. However, this appeal is decided on a fresh and independent appraisal of the cases for and against the proposed development.
5. Following the refusal of the original application, the Applicants, William Morrison (Cheltenham) Limited and The Trustees of the Carmelite Charitable Trust (now the Appellants) amended the proposed scheme and put forward a revised layout for up to 68 dwellings. This was in response to post-Hearing

advice by the Inspector currently examining the draft Cheltenham Plan, proposing a Main Modification (MM) to the allocation of the appeal site for residential development, to reduce the area for built development. To date, the MMs to the emerging Plan are not agreed for public consultation. However, a MM suggested by CBC to the allocation of the site is made public strictly for the purpose of this appeal. I return to this matter of emerging policy in connection with the description of the amended proposal and the issue of the principle of the development, below.

6. CBC did not publish the amended development proposed for consultation. However, the Appellants themselves undertook public consultation on the modified scheme. CBC accepts that this consultation was equivalent to a statutory consultation on the revised application. It was agreed by all parties at the Inquiry that, in the circumstances, the amended scheme should form the basis for the determination of this appeal.
7. I am satisfied that the revision of the proposals is within the parameters of the well-known *Wheatcroft* judgment and that no injustice would result to any party from this approach. Accordingly, I consider the appeal and base my decision on the amended proposal, as described below.
8. Whilst the original application was expressly made in terms of the original scheme for up to 69 dwellings and the modified proposal for up to 68 dwellings, the application was submitted as a modification to a previously refused scheme for 90 dwellings. For the avoidance of doubt, the modified proposal for up to 68 dwellings now forms the basis of this decision on a fresh assessment of its individual merits, in the light of current planning policy and circumstances.
9. Although the matter of layout is for detailed consideration, the description, in terms of 'up to' 68 dwellings, provides an acceptable degree of latitude for adjustment of the internal configuration of the several blocks of dwellings in any future application for approval of the reserved matter of design.

### ***Reasons for Refusal and Other Representations***

10. Subsequent to its original determination of the application, CBC subsequently withdrew its fourth and fifth reasons for refusal on ecology and visual impact. CKF, as Rule 6 Party, continue to object on grounds of ecology as well as heritage. All oral and written representations by CKF and other interested third parties are taken into account in this decision.

### ***Planning Obligation***

11. The appellants have provided a planning obligation under Section 106 of the Act (as amended) to construct 40% of the dwellings as affordable housing units, in response to adopted policy provisions. The planning obligation has been executed as a deed in compliance with the relevant legal requirements. Its provisions are considered further below in connection with the planning benefits of the proposed development.

### ***Site Visit***

12. By agreement with the main and Rule 6 parties, I conducted an accompanied visit to the appeal site with their respective representatives on the day before the Inquiry opened. This was necessary to inform myself properly of the

features of the site and neighbouring Listed Buildings before hearing the evidence. I viewed Ashley Manor from the carriage drive and entered both Ashley Manor and Charlton Manor to observe views from windows facing the appeal site, variously at ground and upper floor levels. I also toured the wider area to observe more distant viewpoints and I drove via the local road network leading to the access point at Oakhurst Rise. It was left open at the start of the Inquiry whether a further accompanied site visit would take place but, by the close, no further site visit was requested or deemed necessary.

### **Description of the Site and Surrounding Area**

13. The principal part of the appeal site is an undeveloped area of land, which extends to 4.29ha. It is located in the eastern part of the Principal Urban Area of Cheltenham, some 2km south east of the town centre, in an elevated position above the town, within Charlton Kings.
14. The site is mainly grassland, divided into two areas by an outgrown hedgerow running approximately north to south and now incorporating a number of large, mature trees. There are other mature trees around and on the site. The area to the west of the hedgerow amounts to about one third of the total site. The site is largely bounded on three sides by the rear gardens of residential properties fronting Birchley Road and Ashley Road to the north and east and Oakhurst Rise to the west. Adjacent to the south are the functional grounds of St Edward's Preparatory School.
15. Currently, the appeal site forms part of the wider St Edward's School grounds, being leased to the School by its owners, the co-Appellant, Carmelite Charitable Trust.
16. The larger, eastern part of the appeal site slopes generally southward and the smaller western area has a relatively steeper gradient to the west.
17. The buildings of St Edward's School lie directly to the south east of the appeal site and include the Grade II\* listed Ashley Manor, now the School administration block, facing approximately west and approached via a winding carriage drive from the main London Road. The most northerly School building is a modern nursery block which stands closer than the Manor to the south east corner of the appeal site.
18. Adjacent to the eastern appeal site boundary, occupying one of three large residential curtilages, is the Grade II listed Charlton Manor.
19. A former Ice House, now infilled and identifiable as a mound with trees above, occupies a central position within the eastern part of the site.
20. Some 46% of the trees on the site are subject to Tree Preservation Order (TPO) No1 1981, covering 18 individual and 8 groups of trees.
21. In the central northern part of the site is a large badger sett (BS1) with outlying setts in other parts of the site, including within the hedgerow to the west and at the Ice House to the east.
22. The appeal site also includes two narrow strips of land to the south west within the School grounds to facilitate the connection of drainage runs to the sewerage system.

## **Description of the Amended Proposal**

23. The amended outline proposal now at appeal is for 68 dwellings with access, layout and scale defined in detail.
24. The sole access would be from the end of the present cul-de sac of Oakhurst Rise, in the north western corner of the site.
25. The dwellings would be arranged in groups, pairs and terraces fronting a network of access roads and would range in size from one- to six-bedroom flats and houses in buildings from one to three storeys. The 40% (28 No) affordable units would be distributed throughout the development.
26. The Ice House mound would be left between the west of plots 31-34 and the estate road, as an historic feature with public interpretative information available.
27. The development would include the removal under licence of the main badger sett, which is situated roughly north of proposed plots 48-50 and south of plots 40-42. The proposal includes the creation of an artificial, relocated badger sett near the south west corner of the site.
28. The development, in particular plots 48-50, would require the felling of a protected tree, Ref 3014, from the central part of the site. The trunk of this tree would be removed to the south west of the site and retained as a feature and 'monoxyle' wildlife habitat. All other protected trees would be retained.
29. Toward the south eastern site boundary there would be a water feature, annotated as a 'rill', and a surface water drainage attenuation pond.
30. Compared with the original 69-dwelling scheme, the built development would be arranged to leave a landscaped space south of plots 16-17 in the southernmost part of the site, to the north west of the front of Ashley Manor. There would be a further landscaped space between the easternmost plots 31-34 and the western boundary with Charlton Manor. These aspects of the amended layout were introduced after the submission of the application in response to the post-Hearing advice of the Inspector conducting the draft Cheltenham Plan examination.

## **Main Issues**

31. On consideration of all the written and oral evidence from the Main and Rule 6 parties and other interested persons, including the several statements of common ground, I consider that the main issues in the appeal are:
  - i. the acceptability of the proposed development in principle, having regard to adopted and emerging planning policy,
  - ii. the potential effect of the development on protected trees,
  - iii. the effect the development would have on the settings of neighbouring heritage assets, in particular the listed Charlton Manor and Ashley Manor and the associated Ice House,
  - iv. the effect of the development on biodiversity, with particular respect to protected badgers and reptiles on the site,

- v. the provision of access and the effects of road traffic that would be generated by the development, and
  - vi. any benefits of the proposed development and, in particular, its contribution to the market and affordable housing land supply in Cheltenham, in the context of a housing land supply agreed to be less than five years.
32. I also consider matters of flood risk and drainage, visual impact in the vicinity of the Cotswolds AONB, adequacy of community infrastructure and residential amenity (noise and disturbance, education, sports, health care).

## **Reasons**

### ***Principle of Development***

#### *Adopted Policy*

33. The current statutory development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (CBLP) and the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS).
34. The appeal site lies within the defined Principal Urban Area of Cheltenham but is not allocated for any form of development. However, neither is the site subject to any policy restriction on development.
35. There is accordingly no objection to the principle of residential development on the appeal site with respect to adopted policy.

#### *Emerging Policy*

36. In terms of emerging policy, the whole of the present appeal site is allocated, by Policy HD4 of the draft Cheltenham Plan, for approximately 25 dwellings, to a layout that respects the existing urban characteristics of the vicinity and the character, significance and setting of heritage assets that may be affected by the development, subject also to protection of key biodiversity assets.
37. At the Hearings within the ongoing Examination of the Cheltenham Plan, draft allocation HD4 has been considered in the light of conflicting expert heritage evidence. On consideration of this evidence, the Examination Inspector has issued post-Hearing advice to the Council that:

*'there is good reason to amend the boundaries of the development area from that proposed in the draft Plan and to require new tree planting around the east and south boundaries to safeguard the settings of both listed buildings. New housing should be located away from the setting of the west elevation of Ashley Manor. This could be achieved through the amendment to the southern boundary of the allocation site so that it continues in a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development, the eastern boundary of the site should be repositioned at least 30 metres west of the rear boundary with Charlton Manor. The Ice House would remain within the confines of the site, but its future could be secured. A MM is required to Policy HD4 to identify the boundaries of the site as suggested above; to identify the level of new housing which could*

*realistically be accommodated within the new site boundary; to identify the need for new tree planting around the east and south boundaries of the site; and to require the improvements to the Ice House ..... .’*

38. It was in response to this advice that the amended 68-dwelling scheme now under consideration was put forward. The Council has meanwhile suggested a MM to Policy HD4 stipulating a ‘minimum of 25 dwellings’ with a series of additional criteria to constrain any built development in the same terms as the post-Hearing advice and, in addition, to require the long-term protection of mature trees and hedges.
39. However, at the time of the Inquiry, the Examination Inspector had not yet agreed the MMs for public consultation and ultimately all proposed MMs to the draft Cheltenham Plan must be subject to full public consultation before the Inspector reaches any final conclusion on the soundness of allocation Policy HD4 or the draft Plan as a whole.

#### *Conclusions on the Principle of the Development*

40. It is evident that, before formulating the post-Hearing advice, the Examination Inspector visited the appeal site but did not find it necessary to enter the adjacent listed buildings. In terms of normal practice, that approach was proportionate to the appraisal of the draft allocation of the site in the local plan, as distinct from a specific application or the current appeal for planning permission now for determination.
41. In the circumstances, whilst the emerging allocation Policy HD4 and the associated post-Hearing advice and suggested MM are material to the present appeal, they can be accorded only little weight, compared with the policies of the current adopted development plan, in this fresh assessment of the amended scheme and the detailed evidence for and against its approval.
42. It follows that, whilst there is no objection in principle to residential development on the appeal site, the proposal now subject to appeal falls to be assessed and determined primarily with respect to the adopted development plan, subject to its consistency with the National Planning Policy Framework (the Framework).

#### **Protected Trees**

##### *Policy and Guidance*

43. The development plan policy of greatest relevance to the loss of protected trees is GE6 of the CBLP. This resists the loss to development of sound and healthy protected trees of high value with at least ten years of life remaining and which make a significant contribution to the character and appearance of the locality of the site or locality. Policy GE6 expressly provides for retention of trees and planting of new trees in conjunction with development, as well as adequate measures to protect trees during construction. Policy GE6 is cross-referenced to BS5837:2005 for guidance on trees in relation to construction.
44. Policy GE5 of the CBLP is also cited in the refusal of the application as well as in several previous appeal decisions<sup>1</sup> as a development management policy resisting the unnecessary felling of healthy and safe protected trees on

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<sup>1</sup> Core Documents E11-13

private land, where they are causing no harm. Policy GE5 applies even to dead trees that are contributing to biodiversity. Notwithstanding the expressed view of the Appellants in connection with this appeal that Policy GE5 is inapplicable as unrelated to new development, it appears to be consistently and appropriately applied in this case, as in previous appeals, as a provision also relevant to development proposals.

45. Policy INF3 of the JCS essentially supports the aims of Policies GE5-6 in terms of avoidance of impact on protected trees and the incorporation into development of measures to mitigate any loss of trees on the site or in its immediate environs.
46. These policies are not entirely consistent with the thrust of the Framework, which makes allowance at paragraph 175 for wholly exceptional circumstances, including public benefit, to justify significant harm even to veteran trees. Any departure from these adopted policies will be subject to consideration in the light of other material circumstances in any event, under section 38(6) of the Act, as amended.
47. Other guidance on trees in relation to construction is contained within the now applicable BS5837:2012 as well as in Natural England and Forestry Commission Standing Advice on protecting veteran and ancient trees.

#### *Loss of Protected Tree Ref 3014*

48. Tree 3014 (T11 in the TPO) is a mature oak. It falls within Category B, of moderate quality, in terms of BS5837, due to impaired condition but still with estimated remaining life expectancy of at least 20 Years. That is not to say that it cannot be regarded as a tree of high value in terms of Policy GE6.
49. The tree is not regarded as more than a successional veteran even by CBC, despite displaying some veteran characteristics, due to current absence of longevity. However, it is assessed as having a potential retained life expectancy of at least 40 years by the Appellants and up to 100 years by CBC.
50. The location of Tree 3014, within a private site of over 4ha, constrains its visual amenity value to external receptors, albeit the site is periodically open for public events associated with the adjacent School.
51. Notwithstanding its current non-veteran status and impaired condition however, the tree plainly contributes to the rural character of the site and provides amenity value in terms of the greening of the appeal site. This would be of potential benefit to future residents if the site were ultimately developed in line with draft allocation Policy HD4 of the Cheltenham Plan, which would not necessarily require its removal.
52. On a balanced assessment of the evidence of the main parties to the appeal, Tree 3014 is of high value and its loss would be harmful and contrary to Policy GE6 of the CBLP, as well as to the aims of Policy GE5 of the CBLP and INF3 of the JCS.
53. That harm would be mitigated to some extent due to the 'moderate' categorisation of the tree in terms of BS5837 and by the retention of its trunk as a 'monoxyle' habitat, with relevance also to biodiversity, considered below.

54. It remains, in any event, to take account of the adverse effect of the loss of Tree 3014 in the overall balance of planning considerations in the appeal.

*Retained Protected and Veteran Trees*

55. It is first appropriate to note the evidence of the Woodland Trust that a significant number of veteran and ancient trees on the appeal site have not been identified as such in the assessment submitted by the arboricultural consultants to the Appellants, including Tree 3014.
56. That assessment is based upon the in-house identification system of the consultants, known as RAVEN<sup>2</sup>. Criticism is based upon the Ancient Tree Inventory of the Ancient Tree Forum and Natural England standing advice for ancient woodland. It turns, in part, on alleged over-reliance by RAVEN, upon the mere size of the tree in assessing its veteran or ancient status.
57. However, it is apparent that the assessment covered all the trees on the site in light of the applicable definition of veteran and ancient trees in the Glossary of the Framework, in terms of age and condition, as well as size, in relation to biodiversity, cultural or heritage value. Furthermore, many trees referenced by the Woodland Trust are retained in the proposal now at appeal.
58. The scheme as a whole, and its measures to protect existing trees in particular, must be considered primarily in relation to the policies of the development plan and the Framework and a realistic assessment of its impacts. I therefore consider it appropriate to proceed on the basis of the agreement between the main parties that the veteran and other trees for retention on the site have been properly identified. The question to be addressed is whether the trees proposed to be retained in the development would be protected effectively.
59. At the Inquiry, it was equally established that there was no substantive dispute among all parties to the appeal that the root protection areas (RPAs) and veteran tree buffers (VTBs) of the trees proposed to be retained in the development have also been correctly defined in terms of BS5837 and Natural England standing advice.
60. It is clear from the detailed amended layout that, in a number of cases, built development would stand relatively close to veteran trees. In some cases, proposed private gardens would extend into the VTB or RPA of a veteran tree and certain elements of construction would take place even potentially among the roots of a veteran tree.
61. For example, a significant part of the RPA of Tree 3007, an oak, would be within the garden of plot 35 at the north east corner of the site. In a further example, a raised walkway and parking bays would occupy about 5% of the VTB of Tree 3018, also an oak, situated towards the north west part of the site. In the case of Tree 3021, an ash, there would be drains constructed within the RPA as well as potential increased public access after development.
62. CBC maintains that these incursions are contrary to the relevant protective planning policies because of their departure from the strict terms of BS5837 and Natural England Standing Advice. However, these advice documents expressly make provision for professional judgement in their application.

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<sup>2</sup> Recognition of Ancient, Veteran and Notable Trees

63. In relation to the foregoing examples, the detailed specialist evidence of the Appellants includes assurance that the crown of Tree 3007 covers less than 25% of the RPA, that the raised walkway partly within the VTB of Tree 3018 would be constructed by 'no-dig' methods and its design would have a minimal ground footprint. Drainage works within the RPA of Tree 3021 would be undertaken by 'trenchless' working and 'below-root boring' techniques and a footpath placed relatively distant from the tree itself. Furthermore, permitted development rights applicable to dwellings and their curtilages would not override the safeguarding provided by the TPO.
64. There is no dispute that the foregoing working arrangements are based upon tried and tested methodologies. The question is whether it can be judged, in this particular case, that they would be effective.
65. On balance overall, I am satisfied that the measures proposed to safeguard the long-term welfare of all the retained protected and veteran trees from the potential impacts of the proposed built development have a reasonable prospect of success. However, that cannot be certain. I am persuaded that there would remain some degree of risk to the longevity of the trees concerned, given the relative degree of density of those parts of the proposed development closest to those concerned, leading to greater public access and activity in close proximity.
66. To that extent, with respect to the retained protected and veteran trees, I find the proposed development to be in some conflict with Policies GE6, GE5 and INF3. This potential harm counts in some measure against the approval of the scheme. The degree to which this conflict will affect the overall planning balance will depend on whether a development of the layout and density proposed is acceptable in terms other planning effects.

### **Heritage Assets**

#### *Policy and Law*

67. Policy CP3 of the CBLP and SD8 and SD10 of the JCS together provide that development should protect, conserve, sustain and enhance designated heritage assets and their settings and avoid harm to views into and out of areas of acknowledged importance, including with respect to listed buildings.
68. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) contains a statutory duty to have special regard to the desirability of preserving the setting of listed buildings.
69. Framework paragraph 193 gives great weight to the conservation of designated heritage assets and paragraphs 195-6 consider harm to heritage assets in terms of whether it would be substantial or less than substantial. Paragraph 196 provides that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The significance of a heritage asset is defined to include its archaeological, architectural, artistic or historic interest, derived not only from its presence but its setting, in which it is experienced. National Planning Practice Guidance (PPG) refers to the extent and importance of the setting to the visual relationship between the asset and proposed development, including that views of or from an asset will play an important part. The PPG also notes that

the contribution a setting makes to the significance of an asset is not dependent upon public access.

70. It is now trite law<sup>3</sup> that this less than substantial harm must be accorded considerable weight in the overall planning balance. However, the judgment in the case of *Shimbles*<sup>4</sup>, with reference also to the earlier *Palmer*<sup>5</sup> case, makes clear that, whilst there is no allowance for any sub-categories of harm within the Framework definition, planning judgement must be exercised. That is with regard to the level of the less than substantial harm, the great weight accorded to the conservation of the asset and the extent of the public benefits.

#### *Contribution of the Site and the Ice House to the Settings of Listed Buildings*

71. The appeal site was historically and remains in the same ownership as Ashley Manor. Although the land evidently was never part of the managed parkland of the Manor, it had a functional relationship with the Manor as farmland, and as the location of its Ice House, which survives as an historic feature.
72. It is disputed whether there was ever a substantial tree belt along the southern appeal site boundary, visually separating the rural appeal site from the formal grounds of the Manor in views from its front, the approaches over the carriage drive from the south or from further afield. That remains a moot point; but whether or not there has, from time to time, existed such a visual barrier, the historical association is beyond dispute.
73. The present circumstances are that the Manor and the site are intervisible through the current boundary vegetation and direct views are available from at least one north-facing window onto the currently mainly open, eastern part of the site, including the tree-covered mound of the Ice House. I observed this for myself, unlike the Inspector dealing merely with the draft allocation Policy HD4. Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views.
74. At the more recently constructed Charlton Manor, against the eastern boundary of site, there has been historic variation in the degree to which this boundary has been vegetated and screened. The main entrance to the house is on its south-facing side and its road entrance is to the east. However, its western elevation, directly facing the appeal site contains its ground floor kitchen as well as significant habitable rooms on the first and second floor.
75. The windows of the upper rooms especially afford open views across the appeal site, past the Ice House mound and as far as the mountains of South Wales on the far side of the Severn Estuary. Again, unlike the Inspector examining the draft Cheltenham Plan, I was able to experience these views personally.
76. I recognise an historic and visual association between the appeal site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor. In terms of the relevant guidance to which I refer above, I consider that the appeal site, with the Ice House it encompasses, contributes

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<sup>3</sup> *Barnwell C1/2013/0843*; *Forge Field [2014] EWHC 1895 (Admin)*; *Forest of Dean [2016] EWHC 421 (Admin)*; *Jones and Mordue [2015] EWCA Civ 1243*

<sup>4</sup> *Shimbles v City of Bradford et al [2018] EWHC 195*

<sup>5</sup> *Palmer v Herefordshire Council and Anr [2016]*

importantly to the historic and current visual setting of both these listed buildings, as designated heritage assets.

77. In the proposed scheme, the Ice House itself would not be directly affected by built development and would potentially be promoted with information on its history and significance as an aid to its public appreciation.

*Effect on the Setting of Ashley Manor*

78. By avoiding built development in the southernmost part of the site, the amended layout mitigates to some extent the effect of the proposed development on the setting of the west-facing, former Ashley Manor House and its surrounding associated buildings and carriage drive. However, the proposed introduction of new landscape planting, screening that boundary, would obstruct the relationship of the Manor to this part of its setting.
79. Moreover, that part of the development comprising plots 27-30, in the south eastern corner of the site, would intervene prominently in views to the north from the Manor House, including from its interior, impeding appreciation of the historic Ice House and the rural backdrop the site currently provides.
80. I recognise that the main front of the Ashley Manor House does not face directly towards the appeal site and that the character of its immediate surroundings has been altered by the addition of modern school buildings, including that closest to the appeal site boundary and north of the Manor itself.
81. Nevertheless, I consider that these effects on the visual relationship between the Grade II\* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building.
82. Having regard to the statutory duty under s66 of the PLBCA, this would be contrary to the protective aims of Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

*Effect on the Setting of Charlton Manor*

83. The amended scheme avoids built development within 30m of the curtilage of Charlton Manor and provides for intervening landscaping to soften the appearance of the new houses in views from the Manor, as advised by the examining Inspector regarding draft allocation HD4.
84. Be that as it may, the presence of the new built development would still be visible from Charlton Manor and prominent in views available from its important west-facing windows. Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34. The appreciation of the Manor in views from within its setting to the west would be compromised, including for residents and members of the public living in or visiting the proposed dwellings.
85. As in the case of Ashley Manor, I consider that these effects on the visual relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact also upon the setting of this Listed Building. Having regard to the statutory duty under s66 of the PLBCA, the effect of the development on the setting of Charlton Manor also would be

contrary to Policy CP3 of the CBLP and SD8 and SD10 of the JCS and result in less than substantial harm to the designated asset in terms of Framework paragraph 176.

#### *Overall Conclusions regarding Heritage Assets*

86. The high significance of Ashley Manor is primarily indicated by its Grade II\* listing and the recognition in its statutory list entry as one of the finest villas in Cheltenham. Charlton Manor, although more recent and listed Grade II, is also of high significance, being the first house erected on the Battledown Estate, taking advantage of its elevated position and belonging to the Victorian Gothic Revival, of which it remains a complete and well preserved example.
87. Thus, the harm to the settings of both these designated heritage assets, whilst less than substantial in terms of Framework paragraph 176, is nonetheless also significant. It requires consideration against the significance of the assets themselves as well as that of the level of any public benefit resulting from the development, in the final planning balance, addressed below.
88. I give no significant weight to the prospect of public access to and information upon the Ice House, as a mere an incidental to the development.

#### **Biodiversity**

##### *Policy*

89. Policy SD9 of the JCS encourages biodiversity enhancement and Policy NE2 of the CBLP seeks to safeguard protected species. These aims are consistent with Framework paragraph 170, which states that planning decisions should contribute to and enhance the natural environment, including by protecting and enhancing valued sites of biodiversity, minimising impacts on and providing net gains for biodiversity. Paragraph 175 also encourages net gains in biodiversity. Paragraph 175 further provides that, where significant harm to biodiversity resulting from development cannot be avoided, or adequately mitigated or, as a last resort, compensated for, permission should be refused.

##### *Badgers*

90. The amended development layout proposed would require the removal of the major, central badger sett, Ref BS1, and its replacement with an artificial sett of detailed design for future approval. On the evidence, I am satisfied that this is tried and tested methodology in common use and that the artificial sett could be provided with sufficient chambers to accommodate displaced badgers choosing to use it and constructed to floor and entrance levels high enough to avoid any local flooding.
91. The badger population currently resident and breeding in BS1 would be removed under licence. Badgers are common, subject even to official culling and legislative protection mainly for their welfare and against illegal and cruel persecution. That is not to say that any harm to them would not give rise to a planning objection, just as in the case of any other protected species.
92. Moreover, from the standpoint of CKF, as objectors to the housing scheme as a whole, it is understandable that they submit that the layout ignores the

'avoid-mitigate-compensate' sequence of Framework paragraph 175, in placing built development and access roads so close to BS1 in the first place. However, if the layout is necessary to the development of the site for other reasons, the question becomes whether the mitigation and compensation measures would be effective.

93. In practice, the evidence is that badgers displaced under licence are as likely to remove to outlying setts or create new ones as they are to inhabit the artificial one provided; also, if they inhabit the artificial sett, that they would potentially extend it and add more chambers themselves.
94. Even though this level of compensation is not strictly necessary and direct harm to the protected badgers could be avoided, the remaining badger population would potentially be subject to more human pressure and interference and their present foraging area would be substantially reduced by the presence of the proposed housing. This implies a reduction in the biodiversity value of the site in respect of its currently resident badger population.

### *Reptiles*

95. In response to local concern, the Appellants undertook a reptile survey shortly before the Inquiry. This, visual observation and local information provides little evidence of the presence of protected reptiles, other than a family of slowworms and a single grass snake.
96. The survey is criticised by CKF in terms of its seasonal timing, the hours and number of survey visits made and the size of the 'refugia' used to attract and count any reptiles present. The Appellants pointed out that a greater number of smaller 'refugia' were used to increase the likely count and that the number of visits accorded with accepted practice. At the same time, the Appellants agreed, at the Inquiry, that the timing of the survey had been sub-optimal in comparison with established guidance. However, there is no countervailing evidence to indicate a greater presence of reptiles on the site.
97. It is further evident that only 14 key wildlife species have been recorded on the site, compared with the 20 required for its consideration of a Key Wildlife Site.
98. On balance, I do not consider it likely that protected reptiles are present on the appeal site to justify objection to the amended outline scheme on grounds of harm to such species. I consider that it would be sufficient to require, by planning condition, a full ecological survey and assessment to be submitted, with measures for the protection and management of any protected species found, and its submission to the Council for approval before any development could commence.

### *Overall Effect on Biodiversity*

99. It is possible that some incidental, improvement to biodiversity could result from the positive management of the site, including the retention of the main part of felled Tree 3014 as ecological habitat.
100. On the other hand, CKF determine that there would be a measurable reduction in biodiversity due to the occupation of much of the site by housing development. However, this is calculated using a metric approach, criticised

by the Appellants and not established as accepted methodology, whereas other professional metric assessment would show enhancement.

101. It is my impression that little weight can currently be given to the results of such conflicting metric assessments, at least in as much as they represent evidence to the present appeal.
102. Overall, I consider that the net effect of the proposed development on biodiversity is likely to be either neutral or negative to some degree and certainly not an enhancement as sought by the thrust of current national and local policy. This factor militates to a degree against the appeal proposal.

### ***Access and Traffic***

103. The route to the sole access point to the appeal site is over a network of residential access roads via an established housing area, with much on-street parking in place for much of the time. The cul de sac of Oakhurst Rise, which would be extended to form the on-site access roads to the proposed development, has a steep gradient.
104. I acknowledge that there are no technical objections to the route in traffic or highway safety terms, whether with regard to width, gradient or alignment of the carriageways, junction or forward visibility, or existing traffic flows.
105. However, such technical issues are not the only consideration in the assessment of the suitability of the access arrangements for new development. In this case, there are genuine local concerns that the additional traffic from the proposed development, amounting to a likely 30 or so vehicle movements in any peak period, would add to congestion and inconvenience to existing frontage residents.
106. I am satisfied that such an increase in traffic flow would not have a significant impact on the wider highway network.
107. However, it is telling that one resident of Oakhurst Rise has been officially advised that an ambulance required to transport a person with mobility difficulties on a regular basis would no longer attend due to difficulty in parking at the frontage once the road was extended. That is a transient personal matter of relatively little planning weight and might be at least assisted by the provision of an additional turning head proposed within the site. However, it helps to illustrate that the access route, as a whole, is tortuous and far from ideal.
108. Notwithstanding the lack of any objection from the highway authority, this factor militates to some degree against the grant of permission for built development of the scale now proposed for the appeal site.

### ***Benefits***

#### *Affordable Housing and the Planning Obligation*

109. The Appellants put forward a considerable body of written evidence that there is a particularly acute need for more affordable housing in Cheltenham. It is undisputed that there is identified need for 231 affordable homes per annum, in a range of size and tenure, equivalent to 1,155 from 2014-18, compared with a delivery 182 in that period and only 507, in the past 18 years, 76 of these in Charlton Kings.

110. A contribution of 40%, or some 28 units, of the proposed housing would be secured by the completed planning obligation. At the Inquiry CBC accepted, and I agree, that this benefit carries very considerable weight in the balance of planning considerations.

#### *Market Housing*

111. It is common ground that, for the purposes of this appeal, the Cheltenham Borough housing land supply amounts to 4.6 years, calculated with reference to the requirement of the currently adopted development plan in relation to available sites. That is as compared with the minimum five year supply sought by Framework paragraph 73. Accordingly, the proposed development would make a significant, beneficial, 68-unit contribution to the overall housing supply.

#### *Other Benefits*

112. There would be a number of other potential benefits, as discussed above, in relation to heritage and biodiversity, but these would not offset negative impacts of the development for the reasons explained in connection with those main issues.

#### **Other Matters**

##### *Flood Risk and Drainage*

113. I recognise public concern regarding local flooding and drainage issues. However, there is insufficient evidence to show that a detailed scheme could not be satisfactorily drained. Surface water discharge could be limited to existing run-off rates by the attenuation pond indicated on the layout plan, once designed in detail to provide suitable capacity. Foul water would be connected, within the grounds of Ashley Manor, to the main sewerage system, also as indicated on the submitted layout plan. Wider local concerns expressed at the Inquiry regarding the matter of flood risk are outside the scope of this appeal.

##### *Visual Impact*

114. The elevated site is widely visible in distant views within the attractive, undulating landscape and its development would have significant visual impact on its immediate surroundings, close to the listed buildings and residential properties, considered above. However, any built development on the site would be relatively well vegetated and enclosed from the wider area. I do not therefore consider that it would cause harm to the appearance and character of the nearby Cotswolds AONB.

##### *Community Infrastructure*

115. There is no substantive evidence to justify objection to the introduction by the proposed development of up to 68 households to justify a planning objection on grounds of a lack of community infrastructure with respect to education, sports or health care facilities.

##### *Residential Amenity*

116. Details of the design and landscaping of the development are for later determination as reserved matters. At that stage I consider that it would be

possible to ensure, by appropriate design, that there would be no unacceptable harm to the amenity of the new residents or those already living at the surrounding properties, such as by way of noise, disturbance, overlooking or overshadowing. That is in the context of an already largely residential area within the Principal Urban Area of Cheltenham.

### ***Balance of Planning Considerations***

#### *Policy*

117. At the heart of the Framework is the presumption in favour of sustainable development, which paragraph 11 requires to be applied in planning decisions. Paragraph 11d(i) requires permission to be granted where the development plan policies which are most important for the determination of the appeal are out of date, unless the application of Framework policies that protect areas or assets of particular importance, including designated heritage assets, provide a clear reason for refusal.
118. Footnote 7 to the Framework makes clear that for housing proposals, as in this case, the lack of a five year housing land supply renders development plan housing provisions out of date and causes the balance set down by paragraph 11d(i), now commonly termed the tilted balance, to be engaged.
119. However, Framework paragraph 11d(ii) provides, in the alternative, for granting permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies of the Framework as a whole.

#### *Overall Assessment*

120. It is established above that the less than substantial harm to designated heritage assets that would be caused by the proposed development carries considerable weight. In my judgement, for the reasons explained above, this harm is of a very significant level and both Listed Buildings whose settings would be harmed are themselves of very high significance. I therefore consider that the less than substantial harm identified amounts to the requisite clear reason to dismiss this appeal, in terms of Framework paragraph 11d(i).
121. However, very considerable weight is also to be accorded to the contribution the development would make to the supply of affordable housing in the face of an acute shortage. The contribution to market housing also carries significant weight, in the absence of a current overall five year housing land supply for Cheltenham. These are the net total of benefits identified in favour of the amended proposal now at appeal.
122. In my overall judgement, the adverse impact by way of the less than substantial harm to the significance of designated heritage assets in this case would alone outweigh these benefits to housing. I therefore consider that dismissal of the appeal is warranted on that ground, with respect to Framework paragraph 11d(ii).
123. Moreover, it is also appropriate to take into account the harms I have identified by way of the loss of a protected tree and the degree of long-term risk to those trees to be retained, the potential net loss of biodiversity and the disadvantage due to the less than ideal nature of the highway access to the

appeal site. I do not consider that these further adverse effects would, either individually or jointly, outweigh the significant benefits to the supply of affordable and market housing. Nevertheless, they do further support the case for dismissal of this appeal.

124. Finally, the weight to be ascribed to the benefit to housing supply is fairly to be regarded as being constrained by the prospect that, even if the present proposal is rejected, there is still potential for the site to be developed in line with an emerging local plan allocation, albeit for a lesser scheme, as well as by the likelihood that, within the foreseeable future, the Cheltenham Plan, currently under examination, will be adopted, with a resultant increase in housing land supply for Cheltenham to above five years. These prospects too, although conjectural and not determinative, still militate against the approval of the current proposal.

**Overall Conclusion**

125. For the reasons explained, I conclude overall that this appeal should be dismissed.

*B J Sims*

Inspector

## **APPEARANCES**

### FOR CHELTENHAM BOROUGH COUNCIL

Mr G A Grant of Counsel

He called:

Ms L Mulraine Tech Cert (Arbor A) TMAA  
Senior Arboriculturalist – Environmental Dimension Partnership Limited

Mr C Morris BA(Hons) BTP MSc(HistCon) PostCertUD  
Senior Heritage and Conservation Officer, Cheltenham Borough Council

Mr R Williams BTP MRTPI MRICS  
Manging Director – Asbri Planning Limited

### FOR WILLIAM MORRISON (CHELTENHAM) LIMITED AND THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST CHELTENHAM BOROUGH COUNCIL - APPELLANTS

Mr S Choongh of Counsel

He called:

Mr A Colebrook MICF MAA MRFS  
Associate Director – Forbes-Laird Arboricultural Consultancy Limited

Ms L Markham BA PGDip PGCert MRTPI IHBC  
Associate – Montague Evans Chartered Surveyors

Mr A Baxter BA(Hons) MA (Oxon) MSc CEcol CEnv MCIEEM  
Director – Aspect Ecology

Mr P J Frampton BSc(Hons) TP MRICS MRTPI  
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Mr M Glaze LLB(Hons) Eng Tech MIHE  
Associate Director - Cotswold Transport Planning

Mr A de Croos BEng  
Associate - Simpson Associates Consulting Engineers LLP

### FOR CHARLTON KINGS FRIENDS – RULE 6 PARTY

Mr L Glenister of Counsel

He called:

Mr P Bell BA MA PDD IHBCo  
of Asset Heritage Consulting

Mr S T Watson BSc(Hons) MICEEM  
Principal Ecologist – Bioscan (UK) Limited

## OTHER THIRD PARTIES AND INTERESTED PERSONS

Mrs S Walker

Mr P Walker and

Mr A Walker of Charlton Kings Friends also spoke on their own behalves

Cllr L Savage also on behalf of Mr A Chalk MP for Cheltenham and Cllr M Babbage

Cllr B Fisher

Cllr P McCloskey

Cllr S Harvey

Ms E Gilmartin and

Mr J Taylor on behalf of The Woodland Trust

Mr R Wilbourn on behalf of The Trustees of the Battledown Estate

Mr T R Gander on behalf of Cheltenham Flood and Drainage Panel

Mr D Edwards MICE

Mr M J Bowles – local resident and arboriculturalist

Mrs J Waite – local resident

Mr A Thurlow – local resident

Mrs L Lythgoe – local resident

Mr C Lythgoe – local resident

Mr R Grimshaw

## **PLANS**

Dwg No PL004 Revision A Proposed Block Plan

Dwg No PL005 Revision D Proposed Site Layout

Dwg No PL006 Revision A Indicative Mass Building Plan

Dwg No PL007 Revision A Affordable Housing Distribution

Dwg No PL010 Revision A Indicative Street Scenes

Dwg No PL011 Revision A Indicative Street Scene

Dwg No PL014 Revision A Nolli Plan

Dwg No 38-1036.03-B Tree Protection Plan

Dwg No 19073.101 Landscape Strategy

## **DOCUMENTS**

### *General and Interested Persons*

- 1 Letter of Notification of the Inquiry
- 2 St Edward's Schools Trust - letter of support
- 3 Mr Alex Chalk MP and Cllrs Savage and Babbage - written statement
- 4 Mr Wilbourn, Trustees Battledown Estate – transcript
- 5 Mrs Waite – transcript
- 6 Mr P Walker – transcript
- 7 Cllr Fisher – transcript
- 8 Mr Edwards – transcript
- 9 Mr A Walker – transcript
- 10 Mr Thurlow – transcript
- 11 Mrs Lythgoe – transcript
- 12 Mr Lythgoe – transcript
- 13 Mr Taylor and Ms Gilmartin, Woodland Trust – transcript
- 14 Mr Bowles – transcript
- 15 Mr Gander, CFDP – transcript
- 16 Planning Obligation
- 17 Suggested Conditions
- 18 Scott Schedules
- 18A Draft suggested MM to Cheltenham Plan allocation HD4

### *Submissions*

- 19ab CBC Opening and Closing Statements
- 20ab Appellants Opening and Closing Statements
- 21ab CKF Opening and Closing Statements

### *CBC Proofs and Appendices*

- 22abc Ms Mulraine
- 23ab Mr Morris

24ab Mr Williams

25 *number not used*

*Appellants Proofs and Appendices*

26ab Mr Colebrook

27abc Ms Markham

28ab Mr Baxter

29ab Mr Frampton

Mr Glaze (Mr Frampton Appendix 4)

Mr de Croos (Mr Frampton Appendix 2)

30abc Mr A Moger BA(Hons) MA MRTPI– Affordable Housing evidence taken as read

*CKF Proofs and Appendices*

31abc Mr Bell

32ab Mr Watson



# CHEL TENHAM

## BOROUGH COUNCIL

William Morrison (Cheltenham)Ltd & APPLICATION NO: 18/02171/OUT  
Trustees Of

c/o SF Planning Limited

FAO Mr Simon Firkins

12 Royal Crescent

Cheltenham

GL50 3DA

DATE

REGISTERED: 27<sup>th</sup> October 2018

DECISION DATE: 22<sup>nd</sup> March 2019

### REFUSAL OF OUTLINE PLANNING PERMISSION

#### TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

In pursuance of its powers under the above mentioned Act and Order Cheltenham Borough Council, as the Local Planning Authority, hereby **REFUSES TO PERMIT** the following development:-

Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT)

AT : Land Adjacent To Oakhurst Rise Cheltenham

in accordance with the reasons specified hereunder:-

- 1 The proposed development fails to adequately address the constraints and site specific requirements set out within emerging Cheltenham Plan Policy HD4 which identifies the site as a potential land allocation for housing. Although the Cheltenham Plan is currently under examination and has not yet been formally adopted, and there are significant unresolved objections to the policy, paragraph 48 of the NPPF (2019) does allow the Local Planning Authority to afford some weight to this policy in the emerging plan.
- 2 The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a Veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons.

The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), and paragraph 175(c) of the National Planning Policy Framework (2019).

- 3 The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.

The development would therefore be in conflict with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019).

- 4 The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally.

The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175(a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.

- 5 The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.

The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).

Tracey Crews : Director of Planning

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.