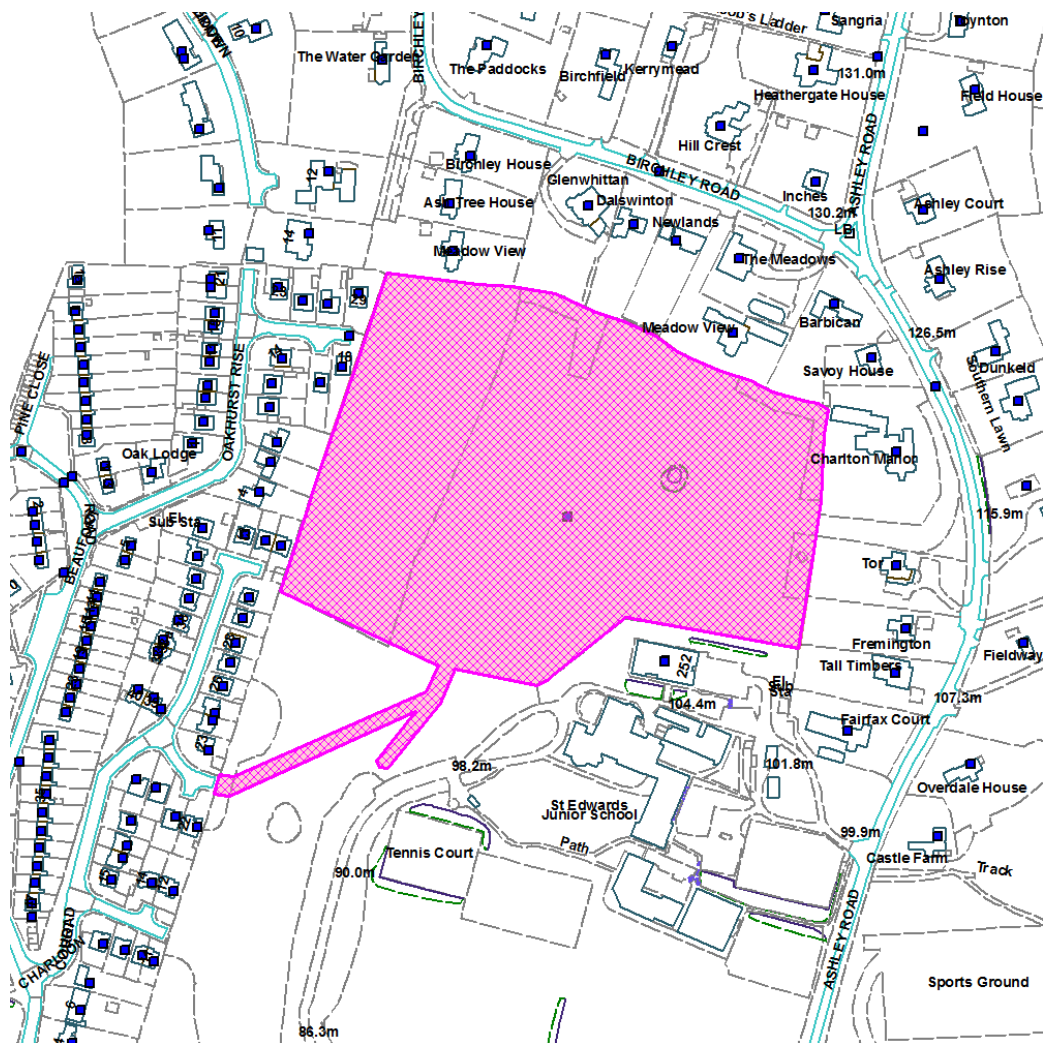


<b>APPLICATION NO:</b> 18/02171/OUT	<b>OFFICER:</b> Michelle Payne
<b>DATE REGISTERED:</b> 27th October 2018	<b>DATE OF EXPIRY:</b> 26th January 2019 (extended until 29th March 2019 by agreement with the applicant)
<b>WARD:</b> Battledown	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b>	William Morrison (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)

**RECOMMENDATION:** Permit subject to S106 agreement



# 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 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

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.