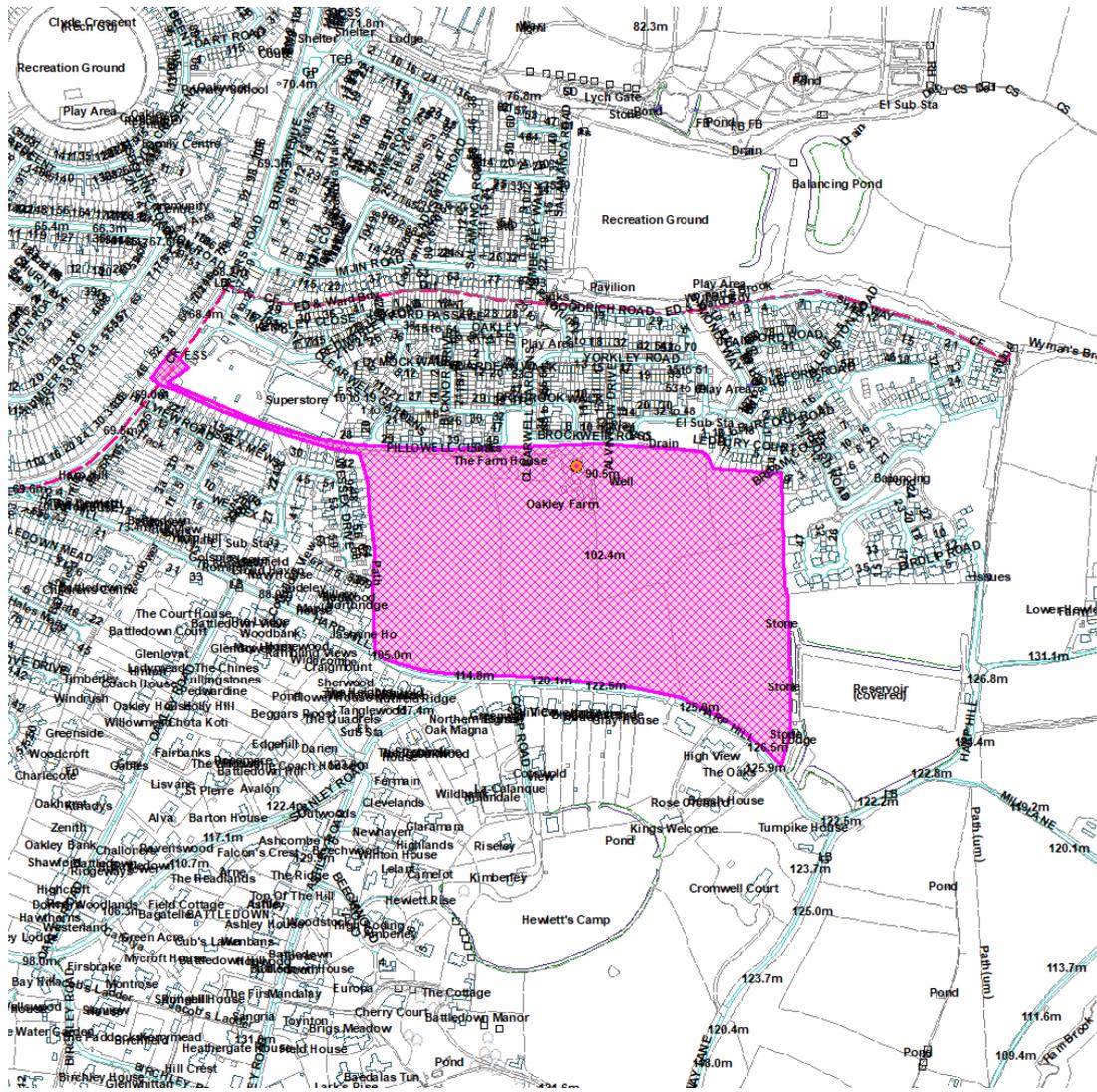


<b>APPLICATION NO:</b> 20/01069/OUT	<b>OFFICER:</b> Mrs Lucy White
<b>DATE REGISTERED:</b> 16th July 2020	<b>DATE OF EXPIRY:</b> 5th November 2020/Agreed Ext of Time 12th March 2021
<b>DATE VALIDATED:</b> 16th July 2020	<b>DATE OF SITE VISIT:</b> 6th August 2020
<b>WARD:</b> Battledown	<b>PARISH:</b> Charlton Kings
<b>APPLICANT:</b> Robert Hitchins Limited	
<b>AGENT:</b> n/a	
<b>LOCATION:</b> Oakley Farm, Priors Road, Cheltenham	
<b>PROPOSAL:</b>	Outline application for development comprising of up to 250 residential dwellings including provision of associated infrastructure, ancillary facilities, open space and landscaping, demolition of existing buildings and formation of new vehicular access from Harp Hill. All matters reserved except for means of access to site from Harp Hill.

**RECOMMENDATION:** (Refuse)



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## **1. DESCRIPTION OF SITE AND PROPOSAL**

- 1.1** The application site comprises of an area of approximately 14.9ha of agricultural grassland and associated buildings at Oakley Farm. The land is no longer a working farm albeit, the land appears to be periodically grazed. The original farm house was demolished in 2019 and the remaining, disused ancillary farm buildings vary in age, construction and appearance.
- 1.2** The application site lies wholly within the Cotswold Area of Outstanding Natural Beauty (AONB). The site is bounded by Harp Hill to the south, the Oakley Grange residential development to the east and north and Wessex Drive to the west. The grade II listed Hewlett's Reservoir and Pavilion form part of the east site boundary. The land rises steeply south towards Harp Hill and is sub-divided into separate field parcels, delineated by extensive rows of established and mature hedgerow and trees. A number of established trees occupy other parts of the site, some of which are subject to Tree Preservation Orders.
- 1.3** Despite the natural sub-division of the land, the site is read as one and displays all of the predominant characteristics of the lower pasture slopes of the Cotswold escarpment. The application site lies within the Character Area 2c (Escarpment: Coppers Hill to Winchcombe) as identified in the Cotswold AONB Management Plan 2018-23. The site is prominent in views from Priors Road, Harp Hill, adjoining footpaths and residential areas and is visible from more distant public viewpoints on the Cotswold escarpment and surrounding areas.
- 1.4** The application seeks outline planning permission for development comprising of up to 250 residential dwellings, to include provision of affordable housing, associated infrastructure, ancillary facilities, open space and landscaping, demolition of all existing buildings and the formation of a new vehicular access from Harp Hill.
- 1.5** The applicant is seeking approval for the proposed means of access to the site from Harp Hill. All matters relating to appearance, scale, layout and landscaping are reserved for future consideration.
- 1.6** The proposed development constitutes Schedule 2 development under Part 2, Regulation 6 of the Town and Country Planning (Environmental Impact assessment) Regulations 2017; exceeding the thresholds for numbers of dwellings and site area. The site is also located within a 'sensitive area' (AONB) as defined by Regulation 2(1). In accordance with the Regulations, screening and scoping opinions were issued by the Council in 2019 and the application is accompanied by an Environmental Statement (ES). The ES includes a main body of text divided into sections covering the key potential environmental effects of the proposed development, as set out in the scoping opinion, and is supported by various technical appendices and survey reports.
- 1.7** The Planning Statement and other submitted documents include a Design and Access Statement, Transport Statement, Travel Plan, Utility Statement, Affordable Housing Statement and draft Heads of Terms for s106 obligations (open space/recreational space and affordable housing provision). Note, that prior to their submission, the submitted Planning Statement and a number of other documents were not updated following adoption of the Cheltenham Plan.
- 1.8** Although matters relating to layout, design and appearance and landscaping are reserved matters, an illustrative masterplan and landscape strategy have been provided plus various drawings indicating preliminary access design and layout, access and movement links, building heights and general land use across the site. In addition, site section drawings and a series of photomontages have been provided.

- 1.9** On 26<sup>th</sup> February 2021, the applicant served notice on the Council of their intention to appeal against the Council's non determination of the application. The period of notice expired on 12<sup>th</sup> March 2021. The Council received notice from PINS of an appeal lodged by the applicant on 14<sup>th</sup> April 2021.
- 1.10** Members are being asked therefore, to consider the officer recommendation and putative reasons for refusal had the Council been determining this application in order to advise the Secretary of State of the Council's views. Members may come to a view as to whether to endorse the suggested reasons for refusal and/or alter the recommendation and reasons put forward by officers. Members are reminded that the Council is not the determining authority for this application.
- 1.11** The application had been referred to the Planning Committee (for determination) following requests from Councillors Babbage, Savage, Baker and McCloskey. The reasons for the referral are the level of public interest arising from the application, the scale and significance of the proposals and resultant harm to the AONB.
- 1.12** To assist Members, all consultee responses are reproduced in full and a summary provided of the concerns raised by local residents. The key issues relating to this application are set out in section 6 of the report and each are discussed in broad terms, alongside the national and local planning policy context.

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

### **Constraints:**

Area of Outstanding Natural Beauty  
Airport safeguarding over 15m  
Airport Safeguarding over 45m

### **Relevant Planning History:**

**18/00458/PREAPP 6th March 2018 CLO**  
Various works to farmhouse, possible extension

**18/01021/PREAPP 15th June 2018 NOT**  
Redevelopment of the site for approximately 70 dwellings and formal/informal open space, together with associated works

**90/00502/GF 28th June 1990 PER**  
Erection of Agricultural Building

**19/00526/SCREEN 2nd April 2019 ISSUE**  
Request for a screening opinion under Part 2, Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended)

**19/00916/SCOPE 12th July 2019 SCOPE**  
Request for EIA Scoping Opinion for Land at Oakley Farm

**19/01610/DEMCON 10th September 2019 NPRIOR**  
Application to determine whether prior approval is required for the demolition of a detached dwelling (The Farmhouse, Oakley Farm) (method of demolition and restoration of the site)

**C19/00042/DEMO 20th August 2019 CLOSED**

Demolition of two story detached dwelling and surrounding hardstanding and linked outbuilding. Demolished inclusive of foundations. Existing below ground drainage to remain and be prominently plugged. Site remediated to top soil.

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

#### **National Planning Policy Framework**

Section 2 Achieving sustainable development  
Section 4 Decision-making  
Section 5 Delivering a sufficient supply of homes  
Section 8 Promoting healthy and safe communities  
Section 9 Promoting sustainable transport  
Section 11 Making effective use of land  
Section 12 Achieving well-designed places  
Section 14 Meeting the challenge of climate change, flooding and coastal change  
Section 15 Conserving and enhancing the natural environment  
Section 16 Conserving and enhancing the historic environment

#### **Adopted Cheltenham Plan Policies**

D1 Design  
L1 Landscape and Setting  
BG1 Cotswold Beechwoods Special Area of Conservation Recreation Pressure  
BG2 Cotswold Beechwoods Special Area of Conservation Air Quality  
SL1 Safe and Sustainable Living  
GI2 Protection and replacement of trees  
GI3 Trees and Development

#### **Adopted Joint Core Strategy Policies**

SP1 The Need for New Development  
SP2 Distribution of New Development  
SD3 Sustainable Design and Construction  
SD4 Design Requirements  
SD6 Landscape  
SD7 The Cotswolds Area of Outstanding Natural Beauty  
SD8 Historic Environment  
SD9 Biodiversity and Geodiversity  
SD10 Residential Development  
SD11 Housing Mix and Standards  
SD12 Affordable Housing  
SD14 Health and Environmental Quality  
INF1 Transport Network  
INF2 Flood Risk Management  
INF3 Green Infrastructure  
INF4 Social and Community Infrastructure  
INF5 Renewable Energy/Low Carbon Energy Development  
INF6 Infrastructure Delivery  
INF7 Developer Contributions

### **4. CONSULTATIONS**

**GCC Highways Planning Liaison Officer**  
*18th August 2020*

RECOMMENDATION: **Further information**

The application proposes up to 250 dwellings with all matters reserved apart from access. The site does not form part of the adopted Joint Core Strategy.

The access strategy can be separated out into key topics of consideration.

#### Immediate Pedestrian / Cycle access

The application proposes a shared use cycleway/footway on to Priors Road. Insufficient detail as been provided on this connection. Drawing H828/06 (in appendix H) show part of this link, but no dimensions are provided, a comprehensive drawing showing the full length and width is required. It also shows a new toucan crossing and cycleway, the applicant should show details of the cycleway width and design standards, and the visibility of the crossing given the adjoining street trees. Additionally, the proposal oversails the existing public footpath, this is important as it is unlawful to cycle on a footpath, therefore the owner of the site would need to convey a higher access right to allow cycling to occur. Without higher rights existing the site would rely on Harp Hill for cycle access only which is not considered to be suitable due to the gradient.

#### Immediate Vehicle Access

The proposal provides a new bellmouth onto Harps Hill, this is supported with visibility splays using the 85th percentile approach speeds. The proposal however fails to provide any details of the dimension of the access or any tracking details and as such this access cannot be agreed. The access also needs to account for the entry into the site, observation indicates that there is a considerable gradient from the access into the site. The applicant has provided an indicative long section this shows a 1 in 20 gradient onto Harp Hill, however to access the majority of the development 160m of 1 in 12.5 is shown, this is unacceptable and no greater lengths than 30m are permitted at that gradient, additionally 1 in 20 should be maintained at the junction. The information submitted is lacking in terms of detail of the access and the indicative sections shows significant challenges which even with considerable earth works would be unacceptable.

#### Improvements to Harp Hill and Priors Road to Active Travel

New footway is proposed on Harp Hill and Cycleway improvements made to Prior Road including a new toucan crossing. The applicant proposes to address these through a planning obligation as a contribution towards the proposals. The Highway Authority is not satisfied through this approach, the works are necessary to deliver the proposal and as such they should be secured through a planning condition and delivered by a section 278 agreement prior to the first occupation of any dwelling. Therefore, any permission granted should include a condition requiring the applicant to deliver the works define in appendix H and I of the TA.

#### Off Site Vehicle Mitigation

The TA assesses several junctions in accordance with the agreed scoping paper, the applicant has concluded that there is an impact at the junction of Harp Hill/Priors Road/Hales Road and Hewlett Road which requires mitigation and all other junctions assessed will experience no impact. A drawing of a mitigation scheme for the above junction is provided in appendix R of the TA and the applicant proposes to pay the Highway Authority to deliver this scheme. The Highway Authority does not share these conclusions nor the form of scheme delivery as the development requires it to facilitate access, therefore it should be secured through a planning condition and delivered through a section 278 agreement.

The Highway Authority has reviewed the mitigation scheme in appendix R. It is accepted that the Junction 9 modelling report indicates that the scheme is beneficial however caution is needed on the over reliance of the model and practical consideration is also needed on the likely implications of the scheme to drivers.

Recognising that the AM peak is most sensitive in this instance the correct comparison of junction performance through modelling along is a comparison of table 7.2 scenario 2 and table 7.5 scenario 3A. This looks at a 2024 scenario without development and with development and mitigation, the modelling demonstrates that mitigated scenario shows an erosion of capacity on the east roundabout on all arms.

When considering the actual mitigation scheme it is considered that the modelling results are likely to be realised and the junction is more likely to form as recorded in the current geometry as shown in table 7.5 scenario 3. The proposal widens the "flare" length and "entry width" as defined in CD116 of the Design Manual for Roads and Bridges, however due to the reverse curve these benefits do not result in any change to the give way point and the widening is modest so is unlikely to change a drivers approach position in any meaningful manner. Therefore the modelling result of the mitigation scheme are correct by virtual of the method adopted, but in practice is unlikely to actually change in driver behaviour, hence the Highway Authority considers the no mitigation reporting to be more realistic and this shows significant capacity erosion as a result of the scheme.

Additionally, a review of the modelling outputs shows unmitigated harm at the following junctions:

- Priors Road / Bouncers Lane
- Prestbury Road / Tatchley Lane / Deep Street / Blacksmiths Lane / Bouncers Lane
- A40 London Road / Old Bath Road / Hales Road

The above junctions should be re appraised and suitability mitigated with a scheme that has the agreement of the Highway Authority. Additionally, a further capacity test is required recognising the lack of local plan designation, the future assessment year should be 2031 to match the local plan assessment period, and all assessment should be undertaken using Temprow 7.2b which is the latest release. This may be best reviewed using the GCC Saturn model.

The applicant has submitted a travel plan to reduce the need to travel and encourage sustainable mode of travel. The applicant has indicated that it their intention for make payment to The Highway Authority to deliver this plan on their behalf, this approach overall is considered to be acceptable. A review of the TP shows that it lacks ambition, the targets are too low and doesn't look to promote personal travel planning as a primary treatment. The travel plan needs to be updated to set an ambitious agenda and series of interventions.

It is therefore necessary for the applicant to review the proposal in light of the above comments and submit a TA addendum and new TP addressing these points.

It is also brought to the applicants attention that Manual for Gloucestershire Streets (July 2020) is available which includes details which may assist the preparation of a TA addendum.

*10th February 2021*

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 recommends that this application be deferred.

The justification for this decision is provided below.

The applicant has provided a TA Addendum (TAA) to which seeks to address the comments dated 17th August 2020. The Highway Authority remains concerned by this proposal and the addendum has not addressed the issues.

The Highway Authority maintains the position that notwithstanding the TA scoping paper the fact that this is not a land allocation in the adopted Joint Core Strategy or Cheltenham Plan means that any development impacts have not been tested along side the planned growth, therefore any proposal beyond that in the adopted plans must be tested over the cumulative impacts that are anticipated. At this time the JCS has a 2031 development timeframe, therefore this proposal must undertake an appraisal in a 2031 future year including the plan identified growth. The application proposes a 2024 appraisal and does not adequately account for that future growth.

Therefore, the conclusions presented underestimate the impact on the highway network.

Response to specific points.

## 2. Immediate pedestrian / cycle access

The proposal shows shared use facilities but as the primary way in/out of the site and in the surrounding highway network. The application has also stated that it has considered LTN 1/20. The recent publication of LTN 1/20 (section 6.5) considers the use of shared use facilities. The LTN advises that shared use facilities should be regarded as a last resort and it details reason why not least due to difficulties for visually impaired persons and the perception of safety for all users. Therefore, any proposal should account for this document and look to provide facilities which separate pedestrians from cyclists. The proposals on the existing highway network do not achieve this nor does the indicative connection within the site. The proposal therefore fails to provide safe and suitable infrastructure for all users.

## 3. Immediate Vehicle Access

The TAA provides additional tracking details. It remains the case that the design on the access is not suitable having large radii, excessive road widths and unacceptable gradient. The applicant has not had regard to how the design should reduce speed at entry, instead the proposal will result in a relatively high entry speed onto a setback pedestrian crossing point which would have little inter-visibility. The access does not conform with Manual for Gloucestershire Streets.

The gradient matter is to ensure that pedestrian, cyclists and particularly those with a disability do not have to endure long lengths of a steep slope. The applicant should note the requirement is published in Manual for Gloucestershire Streets as 1 in 12 should not exceed 30m in length, but there are varying guidance in documents such as MfS2, Inclusive Mobility and LTN 1/20. The application shows that there are gradients at the maximum permitted level on this site, it therefore is necessary for areas to be designed in to allow for less mobile people to rest or be provided with addition support. It is recognised that that the internal layout is a reserved matter but the information before us make it a reasonable question to challenge if safe and suitable access can be provided for all users.

## 5 Off site vehicle mitigation

The applicant has provided further modelling to attempt to demonstrate that there is no severe impact at the junction of Priors Road/Harp Hill/Hales Road/Hewlett Road.

The model has not been constructed in accordance with an agreed scope with the Highway Authority but a review suggested that the base model has been constructed in a suitable manner. However, the traffic count data and queue survey data has not been provided. It is also the case, as previously mentioned, that the assessment does not reflect the plan period and consequently nor does it address committed developments. Even with these omissions the outputs show that the development traffic resulted in increased queue lengths, this was an anticipated outcome and the same conclusion was shown in the junction 9 software. The applicant should also consider the extent of network delay as a

result of this proposal as this data is not presented. This should all be provided for the 2031 future with and without any mitigation.

With regards to the other junctions referred to in tables 5.1 and 5.2, the addendum dismisses the impact on the basis of percentage impact and doesn't look at route choice through the junction, this is not considered to be a fair approach on a congested network and should provide their own junction analysis or microsimulation of the impacts.

## 6 Travel Plan

It is noted that the applicant has indicated that they wish to pay Gloucestershire County Council to implement and monitor the travel plan. This would need to occur over a longer time period given the likely build out rate of the site. As such a travel plan contribution of £64,500.00 would need to be paid through a planning obligation.

Additionally, the public transport officer has also commented that the site is outside the accepted 400m walking distance to bus stops identified as Priors Rd Oakley 'outside and opposite Sainsbury's' and Whaddon Road 'Community Centre'. These stops are of limited quality and lack shelters in some instances.

In terms of bus timetables, taking into account nearest bus stops, the Priors Rd P&Q timetables are extremely limited and not suitable for commuters. Service A 'Whaddon Road' is the more frequent route but appears residents have farther to walk in order to access. In conclusion for this site to be sustainable there would need to be a great deal of thought given towards bus service provision be that directly through the site or towards improving the existing Services P&Q with subsequent infrastructure improvements at the Sainsbury's stops.

The TA Addendum has not addressed the implications of the site on the transport network and fails to provide a suitable sustainable access strategy. Matters of gradient could potentially be addressed through more significant earthworks but at this time it is not clear that this the case and the gradients are excessive and consequently prohibitive to development. The applicant should provide a comprehensive addendum that addresses the above matters.

The Highway Authority therefore submits a response of **deferral** until the required information has been provided and considered.

*1<sup>st</sup> April 2021*

Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 recommends that this application is **refused**.

The justification for this decision is provided below.

The Highway Authority has previously recommended that this application be deferred on 2 occasions seeking further clarification on the assessment presented. The applicant has not engaged with the Highway Authority in order to address these issues before submitted further technical notes. Those notes do not address the concerns of the Highway Authority and the reasoning is listed below.

## Network wide impact

The applicant has acknowledged the need to consider the impact with the Highway

Authority's Saturn model, and now seeks to engage. Whilst this is welcomed the details on how to access this tool have been freely available for the duration of this applications consideration, therefore the applicant is able to commission such services based on the published guidance. It is essential that the applicant provides a suitable appraisal of this site alongside the anticipated local plan sites given it is not allocated and as such impact and infrastructure mitigation for this site has not been accounted for at this stage.

The TA Addendum looked at the percentage impact on some junctions and microsimulation.

Priors Road/Harp Hill/Hales Road/Hewlett Road junction.

Further information has now been provided on the use of the paramics microsimulation model. The conclusion remain the same that there is unacceptable impact which is considered to be severe. The micro simulation tool can help to demonstrate operation usage better than historic junction modelling tools, in the instance of this junction through the TA and TA Addendum both forms of assessment have been undertaken. Both tools focus on this junction and cannot consider any wider reassignment due to the scope of the assessment. Whilst the outcomes should be treated with caution both models show increased delay and queue length in the 2024 scenario and direct mitigation is not proposed.

Priors Road/Bouncers Lane and Prestbury Road/Tatchley Lane/Deep Street/Black Smiths Lane Bouncers Lane junction

The applicant concludes that there is no detriment in 2024, as previously stated this does not capture the full plan period as therefore is an underestimation. The presented table 4 on these junctions does not include the resultant delay, when this is cross referenced again the originally submitted TA the result shows that whilst the queue length is shown to not being excessively long the resulting delay is significant.

A40 London Road / Old Bath Road / Hales Road

The additional technical note does not address this other than suggesting that there is little scope for improvement and suggestion of upgrading the controller unit. The TA demonstrates significant impact to this junction as a result of the proposal. The applicant has suggested that the impact of COVID-19 would result in more flexible and Home working. Whilst this is one scenario the wider implication of the pandemic on travel patterns is not clear. As such reductions in traffic flow for this reason are not accepted.

The TA, TA Addendum and technical note have not addressed the cumulative impact of development and future traffic growth for an appropriate future year. The implications of the development on the network are considered to be severe and consequently conflict with paragraph 109 of the National Planning Policy Framework.

#### Cycle Infrastructure

The Highway Authority has sought that the proposal complies with LTN 1/20. It is considered that this needs to be split in to the consideration of on site and off site works.

On site works would be a reserved matter and therefore it is not necessary to include this as a refusal point. I would however suggest that the applicant suggestion of a 3m shared facility is not acceptable as shared facilities are now considered to be a "last resort" option.

It has been suggested that offsite mitigation is a reserved matter and could be addressed later. This is not an accepted position. The offsite works would be mitigation to the direct implications of the proposal, should those works be delivered through a planning obligation it would have to be address at this stage, therefore it is illogical to conclude the means of delivery dictates the status of the consideration of the works. The detail around the

assessment of needs and design has not been concluded and it is necessary to ensure that a safe and suitable arrangement is provided.

#### Immediate access off Harp Hill

This is a matter for consideration at this stage and therefore the suitability of the access needs to be resolved now. Previous comments raised concern about the access width, speeds, and tracking. In response the applicant has indicated that it design to accord with Manual for Gloucestershire Streets requirements, this is clearly incorrect and does not reflect the required standard. The access is excessive and does not convey a design that is conducive to safe and suitable active travel infrastructure. The access and initial street geometry do not reflect the local design guide and does not address the needs to pedestrians or cyclists.

The site gradient remains a concern. Whilst the internal streets are for future consideration the topography of the site provides significant challenges. The desired gradient is 1 in 20, and no steep than 1 in 12, the applicant has provided details of long lengths of 1 in 12.5. The intent of this gradient is to ensure that layouts are suitable for active travel and particularly for those individuals with protected characteristics. The Highway Authority has no confidence that the 1 in 20 gradient can be achieved and based on the information provided that short lengths be provided where it is steeper. As such it does not consider that a future proposal would be unable to achieve a suitable layout.

#### Travel Plan

The applicant has accepted the travel plan requirements and these need to form part of a suitable legal agreement. This appears to be accepted but not agreement exists at this stage.

#### Public Transport

Bus stop provision does exceed the nationally accepted thresholds. Therefore, in order to offset this it is normal for distance of up to 800m to be accepted where there is highway links and infrastructure. The applicant that some stops are over 600, and 800m from the centre of the site, this will result in a significant number of households exceeding this upper threshold. Additionally, the route would need to be direct and be a pleasant environment. The applicant has already indicated that they intend to provide a shared walking and cycling environment which is not considered to address the needs for pedestrians or cyclists well. As such the distance to bus stops is unacceptable, the route as indicatively shown is unsuitable, and the stops themselves require enhancement. Mitigation of cycle stands at bus stops is unlikely to be a suitable outcome given the relatively short distances by bicycle and resulting multiple transport choices.

#### Conclusion

The application is considered to result in a severe impact on the Highway network which is contrary to paragraph 109 of the National Planning Policy Framework, it is also considered to conflict with paragraphs 108 and 110. It also conflicts with INF 1 and INF 4 of the Joint Core Strategy, LTP PD 0.3 and 0.4 of the Local Transport Plan, and Manual for Gloucestershire Streets.

The Highway Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted the Highway Authority concludes that there would be a severe impact and would conflict with the provision of safe and suitable access for all users. Therefore it is recommended that this application is refused.

## **Battledown Trustees**

*29th July 2020*

This application is yet another attempt to build over irreplaceable green-field pasture land on the edge of Cheltenham, accessed from the already over-used and narrow Harp Hill road.

The two most important of the many reasons we urge the Council to reject this application are:

- 1) This is not a plan-led application and is therefore not in compliance with NPPF requirements. The Cheltenham Local Plan has just been published this month, after years of analysis and debate, and this land is not designated therein for housing development in the foreseeable future;

and

- 2) All this land is within the local AONB and, as such, planners and councillors should be making every possible effort to ensure that there is no development or building of any sort on this land at any time in the future. Land is designated as AONB for a very good purpose, being for the benefit of all future generations, and once built upon can never be recovered.

The combination of the above two reasons is more than sufficient reason to refuse permission. Nevertheless, there are a number of powerful additional reasons to object to this application, viz.:

a) The proposed development will generate many hundreds of extra vehicle movements each day (commuters, school journeys, delivery vans, contractors, shopping trips, etc etc). The only access to the site is via Harp Hill and this road is already over-utilised, recently even more so owing to the new housing development to the north of Hewlett's Reservoir. Harp Hill road is steep and narrow in places (some parts having very poor or non-existent pedestrian pathways), with residential on-road parking between the proposed Site Access point and the B4075 Hales Road/Priors Road junction, such that congestion is already generated in peak hours, leading to lengthy delays. Were the traffic from an additional 250 homes to be added to the existing use, the congestion would become unbearable. Naturally, with such a steep and narrow road, the likelihood of accidents to pedestrians and cyclists would also be increased. Safety concerns alone should mitigate against any planning permission being granted for this land if access is to be via Harp Hill. The only access to Harp Hill road, other than the via the B4075 double-roundabout at the foot of Harp Hill, is through Greenway Lane and Planning Officers / Councillors will be well aware of the already unacceptable level of congestion on Greenway Lane at the Sixways traffic lights during peak hours. This proposed development would only make matters worse.

There are some 30 houses on the Battledown Estate for which Harp Hill is the only access, plus about 100 further houses whose residents make frequent and regular use of the road, so congestion on Harp Hill is a matter of direct relevance to the Trustees and to a significant number of Estate residents.

b) The local schools and GP surgeries are already overloaded, with no spare capacity. There is no provision for a school or a new GP surgery on this site -- so all existing local residents in the Oakley, Battledown and Charlton Kings areas of Cheltenham will suffer, should this application be permitted.

c) The ecological and environmental reasons for refusing this application have already been well-made by many others, so there is no need for us to repeat them here; but that does not diminish their importance.

d) We also object on the grounds that the views of this area of the parish of Charlton Kings as seen from the surrounding Cotswold AONB will be permanently blighted, in contravention of national planning regulations and, in this context, we support the strong objections made by others on similar grounds.

In conclusion, on behalf of the residents of the Battledown Estate we strongly urge you to reject this application.

**Cheltenham Civic Society**

*18th August 2020*

**OBJECT**

Even for an outline application, this lacks detail. There are no elevations, no masterplan. The renewable energy document contains no concrete proposals. The applicant fails to make a case for developing this area of particular importance as part of the Cotswold AONB.

The Civic Society Planning Forum objects to this application as the proposed development is wholly within the AONB and outside Cheltenham's Principle Urban Area. The proposed development would not conserve nor enhance the AONB and would lead to adverse change to the landscape.

Due to its location on the urban fringe of Cheltenham, the Cotswold AONB will continue to come under pressure from developers, which is why the restrictions in line with the NPPF, JCS and Local Plan should be strictly enforced to prevent even small scale developments - let alone larger projects such as the one proposed.

The Forum advocates increased public benefit of this area of the AONB in line with its very special conservation status. Beyond providing visual amenity for its neighbours, this area could provide benefits for the community through access and management for biodiversity. The formation of a trust could help with this process.

**GCC Local Flood Authority (LLFA)**

*24th July 2020*

The Flood Risk Assessment and Drainage Strategy document dated March 2020 published by Phoenix Design Partnership identifies the surface and foul water drainage issues associated with development of the site. It proposes a drainage strategy that will ensure that flood risk resulting from rainfall events will be managed on-site and that flood risk will not be increased elsewhere as a result of the development. The strategy is supported by calculations that are considered acceptable by the LLFA.

The LLFA has no objection to the proposal provided any subsequent detailed drainage designs for the development adhere to principles laid out in this drainage strategy. To ensure this happens the LLFA would recommend that any planning consent granted against this application should be conditioned as follows:

Condition:

No building works hereby permitted shall be commenced until detailed plans for surface water drainage works 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. 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

**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.

**Condition:**

Prior to the occupation of any building surface water drainage works shall have been implemented in accordance with details that have been approved in writing by the local planning authority. Implementation will include the provision of 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 continued operation and maintenance of drainage features serving the site and avoid flooding for the lifetime of the development

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

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

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

**Severn Trent Water Ltd**

*30th July 2020*

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

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

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

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

#### Clean Water Comments

We have apparatus in the area of the planned development, the developer will need to contact Severn Trent Water, New Connections team as detailed below to assess their proposed plans for diversion requirements.

#### **Environment Agency**

*3rd August 2020*

Thank you for referring the above consultation, which we received on 16 July 2020.

As you are aware, we previously provided comments in response to the EIA Scoping Opinion in our letter dated 5 June 2019 (letter reference SV/2019/110277/01-L01).

At that time we did not consider there to be any significant environmental issues within our remit, but provided advice on those matters we felt should be considered either as part of the EIA or in support of any subsequent planning application.

Based on the information submitted, we are satisfied that those issues raised in our response have been addressed as part of the supporting Environmental Statement (ES) or considered within the Flood Risk Assessment (FRA) and Drainage Strategy, dated March 2020, prepared by Phoenix Design Ltd.

Therefore, given the proposed development site is located entirely within Flood Zone 1, (Low Probability of river flooding) we have no objection to the proposed development and have no further comments to add.

#### **Strategic Land Use Team**

*14th October 2020*

Policy considerations in relation to an outline application for development comprising of up to 250 residential dwellings including provision of associated infrastructure.

#### The site

The application site is situated to the east of Cheltenham town centre on the lower slopes of the Cotswold Scarp at Oakley and is outside of the Principal Urban Area (PUA) and it lies within the Cotswolds Area of Outstanding Natural Beauty (AONB).

#### Policy Framework

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be taken in accordance with the relevant adopted Development Plan unless material considerations dictate otherwise. Therefore, in determining this application, the following must be considered:

The adopted development plan for the area:

- The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (December 2017)
- The Cheltenham Plan (July 2020)
- Relevant saved policies of the Cheltenham Borough Local Plan Second Review 2006

Relevant material considerations, which include:

- The National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (nPPG)

#### Policy context

NPPF para. 11(d) provides that, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, the presumption in favour of sustainable development requires permission to be granted unless either:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [6]; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote [6] sets out the relevant policies in the NPPF, including policies "relating to ... land designated as ... an Area of Outstanding Natural Beauty".

In *Monkhill Ltd v SSHCLG* [2019] EWHC 1993 (Admin) Justice Holgate provides a useful 15-stage summary of the meaning and effect of NPPF para. 11. The following excerpts are of particular relevance:

5) Where there are relevant development plan policies, but the most important for determining the application are out-of-date, planning permission should be granted (subject to section 38(6)) unless either limb (i) or limb (ii) is satisfied;

8) The object of expressing limbs (i) and (ii) as two alternative means by which the presumption in favour of granting permission is overcome (or disapplied) is that the tilted balance in limb (ii) may not be relied upon to support the grant of permission where a proposal should be refused permission by the application of one or more "Footnote 6" policies. In this way paragraph 11(d) prioritises the application of "Footnote 6" policies for the protection of the relevant "areas or assets of particular importance";

9) It follows that where limb (i) is engaged, it should generally be applied first before going on to consider whether limb (ii) should be applied;

10) Under limb (i) the test is whether the application of one or more "Footnote 6 policies" provides a clear reason for refusing planning permission. The mere fact that such a policy is engaged is insufficient to satisfy limb (i). Whether or not limb (i) is met depends upon the outcome of applying the relevant "Footnote 6" policies

Cheltenham Borough Council cannot currently demonstrate a five year housing land supply so the policies which are most important for determining the application are out-of-date. Limb (i) should then be applied. The guidance above indicates that just because there is a "Footnote 6 policy" (e.g. AONB) it does not follow that the application should be refused. In this case the relevant paragraph to look at is 172 which says:

"Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the

highest status of protection in relation to these issues...Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest."

Therefore the first step in considering this application is determining whether exceptional circumstances exist which outweigh the great weight attached to conserving and enhancing the AONB. This consideration should take into account whether the development is in the public interest. The contribution the site will make towards meeting housing land supply requirements is significant but cannot on its own be an exceptional circumstance.

If this test is passed then limb (ii) will need to be considered. This is a 'tilted balance' in favour of sustainable development. This is a wider balancing exercise which should take into account all relevant national and local policies.

JCS Policy SD7 states that:

"All development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan."

#### The Cotswolds AONB Management Plan 2018-23

Policy CE1 of the Cotswolds AONB Management Plan requires:

1. Proposals that are likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to, be compatible with and reinforce the landscape character of the location, as described by the Cotswolds Conservation Board's Landscape Character Assessment and Landscape Strategy and Guidelines.
2. Proposals that are likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to the scenic quality of the location and its setting and ensure that views - including those into and out of the AONB - and visual amenity are conserved and enhanced.

Policy CE2 says:

1. Proposals that are likely to impact on the local distinctiveness of the Cotswolds AONB should have regard to, be compatible with and reinforce this local distinctiveness. This should include:
  - o being compatible with the Cotswolds Conservation Board's Landscape Character Assessment, Landscape Strategy and Guidelines and Local Distinctiveness and Landscape Change;
  - o being designed and, where relevant, landscaped to respect local settlement patterns, building styles, scale and materials;
  - o using an appropriate colour of limestone to reflect local distinctiveness.
2. Innovative designs - which are informed by local distinctiveness, character and scale - should be welcomed.

The Council undertook a review of AONB to support the Cheltenham Plan. This review is published in the Landscape Character, Sensitivity and Capacity Assessment of the Cotswold AONB within Cheltenham Borough (April 2015 / updated May 2016). The application site is situated within site reference LCA 7.1 (Oakley Farm Pasture Slopes).

The report concludes that the overall landscape constraint for the character area is major. It considers the site to have a high visual sensitivity and the landscape value to be high. The resulting overall landscape capacity is 'low'.

This report and its findings are a material consideration in the determination of the proposal. It provides a useful starting point in which to establish whether the development compromises the principles of conserving the landscape and scenic beauty of the AONB.

It is also interesting to note that a section at the far west of the site was not originally included in the AONB designation. It was added in 1990 when boundary amendments took place. This suggests that the overall landscape sensitivity of the site has increased over the years.

### Conclusions

It is acknowledged that the proposal would have the effect of increasing the supply of housing land in Cheltenham, but this needs to be weighed against other material considerations, principally the effect of development on the AONB.

The main policy consideration is the need to balance the positive contribution this proposal could make to Cheltenham's housing land supply with the need to give great weight to conserving the Cotswold AONB, which has the highest status of protection in relation to landscape and scenic beauty. Any adverse impact on the AONB as a result of the proposal, which cannot be adequately mitigated, should weigh greatly in the proposal's assessment.

The adopted development plan directs that development should not harm the landscape's natural beauty and JCS Policy SD6 requires that proposals should protect and where appropriate enhance its landscape. Therefore, decision-taker must be satisfied that the application fulfils this.

### **Joint Waste Team**

*17th July 2020*

- 1 Pathway Pathways need to be of hard standing
- 2 Bins Locations Residents would need to be informed that due to it being private dwellings the ownership would be for them to present on the kerbside for 7am on the morning of collection.
- 3 Road Layout Looking at the masterplan there are no turning areas for big vehicles which poses a risk for damage to verges or even third party vehicles. Parking in the new road will reduce the amount of space to be able to turn a 26 tonne vehicle in. Ideally off road parking is advisable with a turning space for refuse and recycling trucks that is to be kept free on collection days. Ideally double yellow lines to be installed in turning areas
- 4 Road Surface The road surface will need to be of a good surface that will take the weight of a 26 tonne vehicle. Until the road has been completed and passed on, Ubico would need assurances that they are safe to enter and not held responsible for any damage.
- 5 Turning Section The road into the new estate will need turning spaces to allow for a 26 tonne vehicle to turn safely. This would require the road to have adequate measures to prevent parking in these spaces.
- 6 Presentation Points The properties would need a position near the kerbside to present bins, boxes, caddy's and blue bags that would avoid blocking access to the pathway or driveways.
- 7 Storage of bin and boxes for single dwellings Properties need adequate space to store bins and boxes off the public highway when not out for presentation
- 8 Communal If any of the properties are to be communal then a bin shed will need to be planned. The bin shed needs to be of adequate size to house all the

receptacles needed for the occupancy. Ideally the bin shed should be no further than 30 metres away from the adopted highway as per the planning guidance document.

- 9 Entrance to roads Ideally the entrance to the roads will need to have double yellow lines to prevent parking at the junction which causes access issues

## **Heritage and Conservation**

*20th October 2020*

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

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

Paragraph 192 of the National Planning Policy Framework states, "In determining planning applications, local planning authorities should take 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 requires, "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)."

Paragraph 194 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.", with Paragraph 196 of the NPPF stating, "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."

The development site is comprised of agricultural fields with several redundant farm buildings located down a lane off Priors Road. To the immediate southeast of the site is Hewlett's Reservoir. There are a number of heritage assets of note within the reservoir.

No.1 Reservoir and No. 2 Reservoir are largely underground reservoirs. No.1 Reservoir built in 1824, No. 2 Reservoir built later in 1839. Both are designed by James Walker (1781-1862), one of the most distinguished civil engineers of the nineteenth century. The reservoirs are the earliest known surviving example of underground reservoirs. They are both grade II listed.

Besides the reservoirs themselves there are a number of notable historically associated buildings and structures within Hewlett's Reservoir. These include the cast-iron gates, Cotswold stone gatepiers and the brick boundary walls. Gatepiers and gates facing onto Harp Hill, date from 1824, and the boundary wall around Hewlett's Reservoir dating 1824 and circa 1850s. These features are grade II listed. Also notable is an ornamental octagonal pavilion, probably historically a valve house, constructed around the 1870s. The pavilion is grade II listed. Finally there is the Lodge facing onto Harp Hill, the former custodian's house, a date stone on its first floor front elevation dating it to 1824. It is briefly mentioned within the list description for No.1 Reservoir and therefore considered listed through its historic association with Hewlett's Reservoir.

The reservoir complex is described in the list description as forming part of a good group of buildings with group value.

Notable but not considered to be affected by the development proposal due to their distance and intervening modern development are to the south, Hewlett's Camp, a Scheduled Monument and to the north, Bouncer's Lane Cemetery, a grade II listed Park and Garden with a number of associated grade II listed buildings and structures, most notably the Cemetery Chapels.

Also notable and within the development site itself are ridge and furrow fields and several redundant farm buildings associated with the former Oakley Farm, all in a poor condition and some structurally unsound. These agricultural buildings are considered to be of low heritage significance.

The development proposal is an outline application for up to 250 residential dwellings with associated infrastructure, open space and landscaping, demolition of existing buildings and new vehicular access from Harp Hill. All matters reserved except for means of access to site from Harp Hill.

Regarding the development proposal, it is important to note paragraph 193 of the NPPF places great weight on a heritage asset's conservation, with paragraph 194 of the NPPF requiring clear and convincing justification for harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset paragraph 196 of the NPPF requires this harm be weighed against the public benefits of the proposal.

An important consideration for the development proposal is its impact on the identified heritage assets in terms of the affect it has on their setting. The immediate setting of Hewlett's Reservoir is rural, defined by tree and hedge lined open fields, with wider views of the suburbs of Cheltenham to the west and open countryside to the east. Its immediate setting is slightly compromised by a modern housing development abutting its northern boundary, an early 2010s redevelopment of the former GCHQ Oakley site. Despite this modern housing development Hewlett's Reservoir retains much of its historic rural setting, maintaining a verdant and open character. It is recognised the application site forms part of the incidental wider rural context of Hewlett's Reservoir and is not part of its curtilage.

It is considered the development proposal will have a harmful impact on the setting of the heritage assets within Hewlett's Reservoir. The development proposal will result in encroachment of built form on the sense of openness that defines how the heritage assets are experienced within their rural setting, intruding into the countryside to the northwest from Hewlett's Reservoir. With the existing adverse impact of the suburban development on the former GCHQ Oakley directly abutting its northern boundary, it is considered the development proposal would have a cumulative adverse impact on the rural setting.

It is noted the plans show an open space to the south of the site, adjacent to Harp Hill. Also notable is the tree lined boundary between the built form of the development proposal and this open space, in addition to other trees and tree groups located along roads and paths which act as screens. This is considered an attempt at allowing some separation between the built form of the development proposal and Hewlett's Reservoir. However, these features are considered inadequate to mitigate the impact of the proposal on the setting of the heritage assets. The open space to the south of the development site and its associated tree screening is not sufficiently large enough to allow a sense of the open countryside character to be retained, its character detrimentally changing from open countryside to an urbanised amenity space with footpaths and access roads, with the tree screening not so dense as to allow the development proposal to be adequately discreet.

The impact of the proposal on the setting of the heritage assets within Hewlett's Reservoir is unacceptable in heritage terms. The proposed works are considered not to sustain and enhance the designated heritage assets. The proposed works are therefore contrary to Section 16 of the Planning (Listed Building and Conservation Area) Act 1990, Chapter 16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy 2017.

It is therefore considered the proposed works would cause less than substantial harm to the significance of the affected designated heritage assets and will therefore need to address the requirements of paragraph 196 of the NPPF. 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.

While it is considered there are public benefits to the proposal, principally through the provision of housing, 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. This weighing exercise needs to be a separate to the general planning balance, the two should not be conflated.

## **Historic England**

*28th July 2020*

Thank you for your letter of 9 July 2020 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

### Historic England Advice

Due to current restrictions we have not been able to visit the site since receiving the application but on the basis of the information provided we can offer the following definitive advice.

We note that the location of this project is in proximity to a number of sensitive, designated heritage assets. These include:

The Scheduled Monument known as 'Battledown Camp' (National Heritage List for England ref. 1002083); and

Four grade II listed buildings at Hewlett's Reservoir; Reservoirs nos. 1 and 2, the pavilion, and the walls, gatepiers and gates (NHLE ref. 48853, 488556, 488557 and 488567).

The application thus has the potential to impact on the setting of designated heritage assets, possibly leading to a loss of significance. This matter is referred to in paragraphs 190 and 194 of the National Planning Policy Framework.

In our view, the application will result in an impact to the setting of the Scheduled Monument noted above. However, we assess the impact to be at the lower end of the scale referred to in paragraph 193 of the NPPF as 'less than substantial'. It is a matter for the Council to determine if the potential adverse impacts of the application to designated heritage assets may be out-weighed by the potential public benefits, as referred to in paragraph 196 of the NPPF.

While we assess the potential impacts on the scheduled monument to be modest, we note the potential for the proposed development to have a more significant impact on the setting of the adjacent reservoirs and associated features, which were listed at Grade II relatively recently. Impacts on Grade II listed structures are beyond Historic England's statutory remit, and we therefore suggest you consult your internal specialist conservation advisors for their views on how the significance of the Grade II listed structures may be affected by the impact of the proposed development upon their setting.

### Recommendation

Historic England has no objection to the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 196 of the NPPF.

### **Cotswold Conservation Board**

*14th August 2020*

Thank you for consulting the Cotswolds Conservation Board ('the Board') on the above planning application.

The proposed development is located in the Cotswolds Area of Outstanding Natural Beauty (AONB). The purpose of AONB designation is to conserve and enhance the natural beauty of the AONB. Whilst the Board recognises that the AONB is a living and working landscape, development in the AONB should be consistent with – and help to deliver – the purpose of AONB designation.

The Board objects to the proposed development, for the reasons outlined below, and recommends that it should not be granted planning permission.

We consider that the proposed development would constitute major development, in the context of paragraph 172 and footnote 55 of the National Planning Policy Framework (NPPF), by reason of its nature, scale, setting and potential to have significant adverse impacts on the purpose of AONB designation.

The site is located in the highly sensitive landscape of the Cotswold escarpment, which is one of the 'special qualities' of the AONB. The newly adopted Cheltenham Plan states that it is particularly important to protect the escarpment as the dominant feature of Cheltenham's setting and expressed concern at the cumulative impact of even small-scale development (let alone a development of 250 dwellings).

The Board considers that the site, in its current form, clearly merits its AONB status because the quality and character of the landscape at the site is unimpaired by its proximity to urban development and is commensurate with the landscape quality in other parts of the Cotswolds AONB. The site is highly visible and prominent feature when seen from nationally, regionally and locally important viewpoints, in particular the Cotswold Way National Trail. It provides an important 'green wedge' that extends the natural beauty of the Cotswolds AONB landscape into the urban area of Cheltenham.

We acknowledge that the southern edge of the site would remain undeveloped. However, even with this mitigation in place, the development would still result significant adverse effects on many of the landscape and visual features and characteristics that make this site so special. Given the elevation of many key viewpoints on the escarpment, other measures, such as planting new hedges and trees are unlikely to provide significant mitigation.

The Board also considers that the development is likely to have significant adverse impacts on the tranquillity of the Cotswolds AONB (which is another of the AONB's special qualities), particularly with regards to the number of vehicle movements on roads in – and

directly adjacent to – the AONB. We also consider that there would be adverse impacts on the setting of the listed buildings of Hewlett's Reservoir.

The starting point for decisions relating to major development is a presumption against granting planning permission. For such development to be approved, it would need to be demonstrated that exceptional circumstances apply and that the development would be in the public interest. However, the Board does not consider that these thresholds have been met.

The Board's recognises that there is a need for new housing in Cheltenham and other settlements. However, the need for this specific development proposal clearly relates to needs arising outside the AONB. As stated in Government guidance, AONBs are unlikely to be suitable areas for accommodating unmet needs arising in areas outside the AONB. Government guidance also indicates that the scale and extent of development in AONBs should be limited.

There is very little housing within the Cheltenham section of the AONB. As such, there is also likely to be very little need for new housing arising within this section of the AONB. Any such housing need is already likely to be met by the new housing in the south east corner of the Oakley Grange development and by other permitted development within the AONB. Consideration of 'public interest' should take into account the fact that AONBs are areas whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard them.

[The Board's full response and supporting appendices are available to view via the Council's website.](#)

### **County Archaeology**

*24th July 2020*

I note that the application is supported by a Geophysical Survey Report (SUMO, May 2019), Archaeological Desk-Based Assessment (CGMS, July 2019) and an Archaeological Evaluation report (Worcestershire Archaeology, December 2019). The latter report concludes that the site produced a single dated archaeological feature, a small gully that contained a small amount of later prehistoric pottery. A few other widely separated and undated features were recorded. The report concludes that the lack of density of features indicates outlying activity away from any settlement foci.

In the light of the above, there is a low risk that significant archaeological remains will be adversely affected by this development proposal. Therefore, I recommend that no further archaeological mitigation or recording need be undertaken in connection with this scheme.

### **Campaign to Protect Rural England**

*14th August 2020*

CPRE objects to the above application for the reasons set out below.

#### The Planning Context

The application is for a major development on a site in the Cotswolds AONB on the periphery of, but outside, the Cheltenham PUA. The NPPF 2019 (paragraph 172) states that:

"Great weight should be given to conserving and enhancing landscape and scenic beauty in ... and Areas of Outstanding Natural Beauty, which have the highest status of protection

... The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."

The need to protect the AONB is reflected in the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy to 2031 (the JCS) in which Policy SD7 states: "All development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan."

The Cheltenham Local Plan, which was adopted in July 2020 and is fully consistent with the JCS, contains the following in amplification of Policy SD7:

8.3. Because of its attractive character, which derives from its built form as well as the landscape of the scarp edge, and its location on the urban fringe, the AONB in the Borough is particularly sensitive to development pressures. A restrictive approach is therefore necessary to conserve and enhance both of these elements. The Council considers it particularly important to protect the scarp as the dominant feature of Cheltenham's setting and is concerned at the cumulative effect of even small-scale development and of development in new locations within the AONB.

8.4. In assessing proposals for development, the Council will be guided by Paras. 115 and 116 of the National Planning Policy Framework (NPPF)\*, Policy SD7 of the Joint Core Strategy (JCS) and the advice of the Cotswold Conservation Board with reference to the latest iteration of the Cotswold AONB Management Plan.

(\* Note that the Cheltenham Plan above refers to paragraphs in the 2012 version of the NPPF.)

JCS Policy SD7 is strongly supported by the Cotswold AONB Management Plan, which deals in considerable detail with the Cotswold scarp. The site is located in Local Character Area (LCA) 2D, Coopers Hill to Winchcombe, one of seven such areas covering the scarp slope from Bath to Edge Hill. In a table, the column headed Local Forces for Change, the Plan refers specifically to LCAs 2A (including Bath) and 2D (including Cheltenham) as those adjacent to by far the two largest settlements located close to the scarp and where, at least by implication, pressures for development are greatest. The two other columns are headed Potential Landscape Implications and Landscape Strategies and Guidelines. In the former, CPRE considers the first, fourth, fifth and ninth bullet points, covering encroachment of built development, proliferation of suburban building styles, spread of lit elements and degradation of views to be particularly important. In the latter, the first second, seventh ninth and thirteenth bullet points, covering the maintenance of open character, intrusive development, layout and design, styles and materials, and light pollution are factors which would militate against the development of this site, even in principle.

In accord with the above policies, the proposed site is NOT allocated for development in the Cheltenham Local Plan.

Housing Land Supply

The applicant argues that, because Cheltenham is currently unable to demonstrate a 5-year housing land supply, the exceptional circumstances of NPPF paragraph 172 apply. However, to make such an exception only a matter of weeks after the Cheltenham Local Plan has been adopted is demonstrably contrary to the spirit and purpose of the planning system as embodied in the NPPF. The calculation of housing land supply is highly variable and depends on many factors outside the planning authority's control, not least the willingness of developers to build out those sites which already have planning permission. Given the many other arguments against a major development on this site, this is an aspect which should attract little weight.

We note that the most recent assessment shows that Cheltenham Borough has a 3.7 year supply of land for housing, compared with 4.6 years in the previous assessment. This decline is explained mostly by the fall in the number of dwellings available in the five-year period under review, from 3,104 to 2,265, or 27%. This in turn is nearly all explained by the fall in the anticipated yield of the strategic sites, West Cheltenham and North West Cheltenham, parts of which lie in Tewkesbury Borough. Cheltenham Borough Council has no control at all over the progress of sites outside its administrative area.

CPRE is not attempting to argue that more dwellings are likely to be built, on these two sites in particular, than the Borough Council predicts. Rather, the issues are these, based on the specific circumstances of Cheltenham and its environs: first, the weight that should be attached to five year supply in decision making; secondly, the way in which the five year supply has been calculated in the JCS area.

In respect of the first issue, CPRE has been concerned for some time about the weight carried by housing land supply in decision making at the expense of other important considerations. The Government attaches great importance to the plan-led system. The dominance of five year supply issue, however, has the effect of undermining it, in that if fewer dwellings are forecast to come forward on allocated sites, then this can (and often does) lead to the release of unallocated sites. The planning system takes the contribution of windfall sites appropriately into account; but these are by definition sites which could not reasonably be identified in advance and allocated in a development plan. However, in this particular case development on a very substantial scale is proposed. The effect of this in the long term in some areas (Cotswold District is a good local example) might be more housebuilding than the development plan provides for. This is not necessarily a bad thing; indeed, we acknowledge that fewer houses overall are being built than the nation requires. (There are issues also of whether the housing which is being provided is of the right type or in the right location.) Rather, the issues relate to the specific harms which may arise from the release of particular sites and the general effect on the pattern and distribution of development and its sustainability.

The Cheltenham Plan shows that potential supply exceeds the OAN of 10,917 dwellings by a comfortable margin. The 2018 five year supply assessment supposedly includes an appendix containing a legal opinion on whether the Plan could be submitted for Examination in the absence of a five year supply. Although this appendix is missing from the CBC website, the very fact that the Plan underwent Examination indicates what that opinion was. Furthermore, the Plan was found sound subject to Modifications which did not directly concern this issue. The Inspector had this to say at paragraph 53 of the report on the Examination: "In these circumstances it is not a matter for the Cheltenham Plan to demonstrate the provision of a five year supply of housing land", and at paragraph 56, "the availability and deliverability of the sites identified for housing in the Cheltenham Plan have been tested through the examination process".

Turning to the second issue, CPRE has also been concerned about the way in which the five year supply has been calculated from the time of the JCS Examining Inspector's Interim Report in 2016 onwards. There has been no adequate written explanation of justification of this approach anywhere. CPRE is not aware of a Committee resolution in

any of the three constituent authorities. Although there is nothing directly in the NPPF or PPG to prevent this approach, there is nothing to support it either. In the Borough Council's own documents, it is inadequate to say, as paragraph 12 of the December 2019 Position Statement does, "the following method of calculating the five year housing land supply for Cheltenham was discussed at the Examination in Public of the JCS and was found sound by the Inspector...".

CPRE would have carried out its own assessment based on the Borough Council's boundaries but the presentation of the data in the main planning documents is so poor that this cannot be done. We would urge the Borough Council to carry out such an assessment.

#### Landscape Impact

This greenfield site occupies rising open ground on a shoulder of the Cotswold escarpment. The upper part is readily visible from other parts of the escarpment, notably from Cleeve Common, from sections of the Cotswold Way and from other public rights of way. The wider site is also visible from the footpath which borders the western edge of the site and from the upper part of Harp Hill, from which there are extensive views of the escarpment towards Cleeve Hill.

The site has formed an integral part of the Cotswolds AONB since its designation in 1966. Its continued inclusion was confirmed in 1990 following the AONB boundaries review. Throughout that time, the brownfield land to the North of the site was occupied by the many and varied buildings of GCHQ. These were more intrusive into the landscape than the residential development which now occupies the site. It is not therefore a sustainable argument that the landscape value of the site has been reduced by this adjoining residential development.

In 2015, Cheltenham Borough Council commissioned a Landscape Character, Sensitivity and Capacity Assessment of the Cotswolds AONB within its administrative area. The result of this review - the Ryder Report - designated the application site area as Site Ref: LCA 7.1, Oakley Farm Pasture Slopes. In all three categories of assessment: Visual Sensitivity, Landscape Character Sensitivity and Landscape Value; this site was classified as High. The landscape capacity for development was thus assessed as Low. There has been no material change to the nature of the site since this assessment was carried out.

It is accepted that limiting housing development to the lower parts of the site would reduce the damage caused to the landscape. However, the proposal provides for the only major vehicle access to and from the site to be from near the top of Harp Hill. This access in itself would cause extensive damage to the landscape, including changing it from rural to suburban in character.

#### Transport and Access Issues

The proposal provides cycle and pedestrian access to existing development to the west and to Priors Road, thus enabling access to local services and buses along Priors Road. But, apart from for emergency vehicles, the only vehicle access is from near the top of Harp Hill. Unless there is a good buses service serving the site itself, those unable to walk or cycle a reasonable distance would rely on private transport, as Priors Road is some distance, especially from the Easterly part of the site.

Whatever the claims otherwise, it is inevitable that in a development of this layout and scale extensive use will be made of private transport both for local journeys and for travel further afield.

Harp Hill, with connecting Greenway Lane, Aggs Hill, Mill Lane and Ham Road are minor roads in the AONB which already become congested, especially at peak times, by traffic between the northern part of Cheltenham and Charlton Kings, the east and south. In particular, there is traffic to and from Glenfall Primary School and Balcarras Secondary

School. For this reason, the recent residential development at the top of the former GCHQ site (Eden Villas), which has vehicle access onto Aggs Hill, was limited to only 40 dwellings. Lower parts of the GCHQ site are accessed from Priors Road. A vehicle access to the application site near the top of Harp Hill would cause excessive further traffic congestion.

### Social Cohesion

While there are limited non-vehicle connections to the adjoining residential site to the west, there is only one vehicular access. As the illustrative masterplan shows, the geography and layout of the application site are in consequence insular in nature. This will lead to any development being cut off from the adjacent built up area with poor social integration with the rest of the town.

### The Planning Balance

The benefits of providing of a further 250 dwellings towards meeting Cheltenham's housing requirement, with attendant construction and occupancy economic benefits would be more than outweighed by:

- The damage caused to the local landscape which lies entirely within the Cotswolds AONB
- The disregard of statutory planning policies enshrined in the NPPF, the JCS and the Cheltenham Local Plan. The credibility of the Cheltenham Local Plan, which was only adopted in July 2020 would be particularly damaging.
- The serious impact of the resultant additional traffic on local roads, especially on minor roads within the AONB.
- The creation of another isolated local community.

CPRE urges Cheltenham Borough Council to refuse this application.

### **Ecologist**

*23rd October 2020*

I have reviewed the Ecology aspects of the Environmental Impact Assessment that includes Preliminary Ecological Appraisal (including bat roost inspections, hedgerow regulation surveys), reptile surveys, breeding bird surveys, bat activity and emergence surveys.

No badger setts or reptiles were recorded on the Site. Precautionary measures to avoid trapping badgers or small mammals such as hedgehogs should be considered including putting ramps in any trenches/holes that are excavated.

No mention of hedgehogs (a NERC Priority Species) is made, it is considered likely that they could be present and considering the endangered status of this species, mitigation is required. For example, the aforementioned ramps for trenches/holes, 13x13cm holes created at base of fences to allow permeability for hedgehogs, ecological checking of any piles of logs/brush/rubble before clearance.

The variety of bird species recorded using the site were not considered to be 'remarkable' with low numbers of notable breeding bird species, including house sparrow, willow tit, dunnock and bullfinch. However, a variety of bird species were recorded and therefore mitigation and enhancements for birds is required. It is noted that the bird breeding season is stated as March to July in the report, this needs extending to March to August as the period when works to trees, shrubs and hedgerows should be avoided due to the risk of disturbing nesting birds.

The majority of bat activity across the site was recorded from common pipistrelle bats, with less activity recorded from Myotis species, lesser horseshoe bats, soprano pipistrelle,

Nyctalus species., brown Long-eared, Nathusius' pipistrelle, barbastelle and serotine. One mature oak tree functioned as a summer day roost used by a single noctule bat in the north of the Application Site and this appears to be retained in the development plans. The tree and its root protection zone must be protected during development and landscaping. This bat roosting tree must not be illuminated as this will deter bats from roosting in future.

Should this tree require tree surgery/removal in the future, then it will be necessary to undertake update bat surveys to confirm level of usage and inform a Natural England licence application. However, its retention is both welcomed and recommended.

In general, bats use most of the hedgerows within the Application Site to varying degrees throughout the year with areas of greater registrations at the crossing point of H3 and H1 along hedgerows and trees associated with the demolished farm building B1, along H7-H11, along the northern section of H9 (just before crossing point of H9 and H12), at the crossing point of H2 and H2a. Lower numbers of bat registrations were recorded along H1, H2a, H5, H6 and along the north-western (H2a and H3), north-eastern and eastern boundary of the Application Site. The hedgerow retention plans broadly appear to reflect the hedgerows most frequently used by bats as foraging/commuting corridors. It is essential that these areas are not illuminated, and this should be reflected in the site lighting plan, particularly as the site currently supports particularly light adverse species such as lesser horseshoe, barbastelle, brown long-eared bats and Myotis species.

It appears from the plans that the trees identified as containing suitable bat roosting features will be retained. It is important that the trees and their root protection zones are protected during development and landscaping. These trees should not be illuminated. Should it be necessary to undertake tree surgery/remove any of these trees, then update surveys will be necessary to confirm whether bat are roosting or not currently.

Mitigation measures for the aforementioned species should be detailed in a Construction Ecology Management Plan. This should include a lighting plan for the site detailing lux levels and light spill as well as lighting types to use. Lighting recommendations for bats (in terms of lux levels and lighting types) should be followed.

The development will result in the loss of some mature hedgerows and semi-improved grassland (plus areas of grassland with greater species diversity). The veteran trees appear to be retained in the development proposals, which is welcomed. However, care needs to be taken to ensure that both veteran trees and their root protection zones are protected during development and landscaping. The planting of native trees and shrubs, native hedgerows and wildflower grassland plus a naturalised SUDS feature is welcomed. Care needs to be taken when seeding areas with wildflower and native grass seed that the underlying soil is suitable and if not, then appropriate measures need to be taken to ensure that the wildflower habitat can establish. Details of implementation and management of the planting scheme should be included in a 10-year Landscape and Ecology Management plan for the site. This plan will include details of enhancement measure for relevant wildlife (e.g. bird/bat boxes, hibernacula, hedgehog shelters).

National Planning Policy Framework (NPPF) and Local Plan Policy (Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 - 2031) (adopted December 2017)

Context:

NPPF Para 170 - 177 (Conserving and Enhancing the Natural Environment), National Planning Policy Framework  
SD9 Biodiversity and Geobiodiversity  
INF3 Green Infrastructure

Wildlife legislation context:

Wildlife and Countryside Act 1981 (as amended)  
Conservation of Habitats and Species Regulations 2017

### Habitat Regulations Assessment (HRA)

Due to the nearness of the development to Cotswold Beechwood SAC, a shadow HRA is necessary. This particularly needs to address recreational pressures on the SAC. The applicant has provided a shadow HRA to assess the impact of the development on these SAC.

The shadow HRA prepared by Ecology Solutions in December 2019, concluded that based on the 8.7km distance between the site and the Cotswold Beechwoods SAC and the number of alternative recreational resources that are closer to the site, it follows that there would not be any likely significant effects on the Cotswold Beechwoods SAC, either alone or in combination with other plans or projects, resulting from the proposed development at the Land at Oakley Farm. However, as an additional measure to further minimise any impact, the applicant will provide Homeowner Information Packs (HIPs) to new residents. The HIP should include information to make new residents aware of local green space options as well as the sensitivities of nearby sites of nature conservation concern including Cotswold Beechwoods SAC and how to act responsibly to avoid disturbing wildlife (including: residents should be advised to keep dogs on leads at the aforementioned sites and recommendation to keep cats in at night to reduce hunting pressure on wildlife). A map of alternative public open spaces including those in the development and their foot/cycleway links plus public transport links needs to be included along with guidelines on wildlife gardening and leaving the pre-cut 13x13cm hedgehog tunnels in fences to allow hedgehog movement across the estate. As such, based on the information presented above it is considered that the development proposals at the Land at Oakley Farm would not likely affect the integrity of the Cotswold Beechwoods SAC either alone or in combination with other development, thus meeting the test of the Habitats Regulations 2017.

### Conclusion & Recommendations

1. The mitigation measures in the Ecology reports and in this document should be expanded on in the form of a Construction Ecological Management Plan (CEMP), which should include a lighting plan. The CEMP needs to be submitted to the local planning authority for approval prior to determination. A copy of the approved CEMP needs to be given to the contractors on site to ensure that everyone involved is aware of the requirements to protect wildlife and habitats.
2. The enhancement measures in the Ecology reports and Landscape Strategy need to be expanded on in the form of a Landscape Ecological Management Plan (LEMP) with should be applicable for a minimum period of 10 years and include monitoring regime to ensure habitats establish well and animal shelters remain in good state. The LEMP needs to be submitted to the local planning authority for approval prior to determination.
3. Homeowner Information Packs must be given to all residents at the proposed development. These packs should contain the information outlined above. A sample Homeowner Information Pack must be submitted to the Local Planning Authority to review and approval be obtained prior to first occupation and delivery to new homeowners of the development.
4. The development needs to show a positive Biodiversity Net Gain (BNG), which should be calculated using the DEFRA Metric and the results submitted to the planning authority for approval prior to determination. (Should the development not show a positive BNG, then the landscaping plans may need revising and if insufficient land can be used as greenspace on site then additional greenspace land may need to be found)

*23rd October 2020*

HRA extract available to view in Documents tab.

6<sup>th</sup> April 2021

I have reviewed the BNG report, CEMP and LEMP plus lighting plan provided by the applicant. The CEMP and LEMP together give sufficient level of detail as to how the ecological features on site will be protected and specify the ecological enhancement opportunities, which are shown on the landscape plans. However, I note that no mention of hedgehog tunnels built into base of fences is mentioned, this needs to be added to the CEMP/LEMP to ensure connectivity for hedgehogs across the site.

The Biodiversity Net Gain (BNG) report demonstrates that the development with its landscape and planting plan can achieve positive biodiversity net gain, which is welcomed. I recommend that the development proceeds in accordance with the guidance/recommendations given in these documents and shown on the landscaping/lighting plans and this should be conditioned.

## **Natural England**

3rd September 2020

Comments available to view on line.

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

Natural England objects to this proposal. As submitted we consider it will:

- have a significant impact on the purposes of designation of the Cotswolds AONB.

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

We have reached this view for the following reasons:

- The proposed development comprises a major residential development within the Cotswolds Area of Outstanding Natural Beauty.
- The proposed development has significant landscape and visual impacts on the AONB.
- The application site is not allocated in the adopted local plan.

Natural England has visited key viewpoints overlooking the application site and has the following advice:

The proposed development is for a site within a nationally designated landscape namely the Cotswolds AONB. The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. 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).

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 recently adopted Cheltenham Borough Plan. We note your adopted plan's specific reference to the impacts of development on the escarpment at paragraph 8.3.

We note and agree with the detailed objection response submitted by 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, provide a

fundamental contribution to the planning decision. The local Landscape Character Assessment provides a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

Following a site visit to view the application site from key viewpoints on the Cotswold Scarp (Cotswold Way National Trail) and taking in the Cheltenham Circular Footpath Natural England has concluded that the application is likely to:

(i) Cause significant landscape impacts through the loss of open pasture on the application site and its replacement with an urban settlement form on sloping land.

(ii) Prove very hard to mitigate with the proposed use of additional green infrastructure due to:

a. the timescales associated with hedgerows and trees achieving a reasonable degree of screening and/or filtering.

b. The sloping topography of the site together with the extent and height of the proposed housing is unlikely to allow effective mitigation even in the longer term.

(iii) Taking account of the challenges associated with effective mitigation described above the significance of medium and longer term effects on visual amenity from various locations along the Cotswold Way National Trail is likely to be greater than that described in the submitted Environmental Statement's landscape and visual impact assessment (LVIA)<sup>1</sup>.

#### Designated Sites – further information required

Notwithstanding our objection on landscape grounds the following advice also applies with regard to designated sites:

#### European sites

As submitted, the application could, in combination with other new residential development in the Council's area, have potential significant effects on The Cotswolds 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 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 9Km of the Cotswolds Beechwoods Special area of Conservation (SAC) which is a European site. The site(s) 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.

Natural England advises that an Appropriate Assessment should now be undertaken, and the following information is provided to assist you with that assessment.

Policy SD9 'biodiversity geodiversity' of the adopted Gloucester, Cheltenham and Tewkesbury JCS and Cheltenham policy BG12 refer. Our advice letter dated 22.8.18 provides further baseline information<sup>3</sup>. Most recently a visitor survey of the SAC has been published<sup>4</sup> indicating a 15km zone from within which visitors travel to the site, most often by private car. Work has been commissioned by the collaborating Local Planning Authorities to identify suitable mitigation measures within the zone. Until those measures

have been identified and agreed we advise that the following should be considered in an HRA when determining applications for residential development within the zone of influence:

- 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. Suitable information in the form of a Homeowner Information Pack.

Please re-consult Natural England when your appropriate assessment is available.  
Sites of Special Scientific Interest (SSSI)

The following SSSIs with public access lie within 5 km of the application site:

- Cleeve Common
- Leckhampton Hill & Charlton Kings common
- Puckham woods
- Lineover Wood

The Cotswold Commons and Beechwoods SSSI and National Nature Reserve (NNR) also partially coincides with the Cotswold Beechwoods SAC.

The information used to carry out the HRA (appropriate assessment) of the Cotswold Beechwoods SAC is also likely to provide a suitable basis for consideration of impacts and suitable mitigation in respect of additional recreation pressure on these SSSIs. Provided that suitable information is submitted and subject to assessment as described above we do not anticipate the development having adverse effects on the notified features of these SSSIs.

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

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

Should the developer wish to explore options for avoiding or mitigating the effects described above with Natural England, we advise they seek advice through our Discretionary Advice Service. Should the proposal change, please consult us again.

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

*13<sup>th</sup> April 2021*

Thank you for your consultation on the above dated 09 April 2021 which was received by Natural England on the same day. This letter provides our advice on the submitted shadow HRA. Please refer to our previous advice letter in respect of other matters within our remit.

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:

## HABITATS REGULATIONS ASSESSMENT - NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would, in combination with residential and tourist related development in the wider area:

- (i) have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.
- (ii) damage or destroy the interest features for which the Cotswolds Commons and Beechwoods Site of Special Scientific Interest and neighbouring SSSIs in the area with public access have been notified (please see overleaf).

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

- Homeowner Information Packs providing information on recreation including both opportunities for visits in the area and the sensitivities of local and designated sites.

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

### Further advice on mitigation

Policy SD9 'biodiversity geodiversity' of the adopted Gloucester, Cheltenham and Tewkesbury JCS and Cheltenham policy BG1 refers. Our advice letter dated 22.8.18 provides further baseline information. Most recently a visitor survey of the SAC has been published indicating a 15.4km zone from within which visitors travel to the site, most often by private car. Work has been commissioned by the collaborating Local Planning Authorities to identify suitable mitigation measures within the zone. Until those measures have been identified and agreed we advise that the following should be considered in an HRA when determining applications for residential development within the zone of influence:

- 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. Suitable information in the form of a

### Homeowner Information Pack.

Natural England notes that the submitted Habitats Regulations Assessment (Including stage 2 - Appropriate Assessment) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this appropriate assessment to fulfil your duty as competent authority.

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

In terms of format the Homeowner Information Pack should present information describing informal recreation opportunities in the following sequence:

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

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

Sites of Special Scientific Interest (SSSI) - No objection subject to mitigation

A number of SSSI with public access lie either close to the application site or between the application site and the Cotswold Beechwoods SAC:

- Cleeve Common
- Leckhampton Hill & Charlton Kings Common
- Crickley Hill and Barrow Wake

The SAC also partially coincide with the Cotswold Commons and Beechwoods SSSI and National Nature Reserve (NNR). Provided that the proposed Homeowner Information Pack ensures these SSSIs' sensitivities are included within the document we do not anticipate the development having adverse effects on the notified features of these SSSIs.

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.

For any queries regarding this letter please contact me on 07554 459452. For new consultations, or to provide further information on this consultation please send your correspondence to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission. Should the proposal change, please consult us again.

**GCC Community Infrastructure Team**

*21st August 2020*

Summary: Contributions will be required to make the development acceptable in planning terms

Please refer to GCC Commissioning for Learning Report dated 06/08/2020 for detailed assessment of the impact of this proposal on Education infrastructure and the necessary S106 requirements to mitigate the impact if planning permission is granted.

Supporting Education Information:

- The School Place Strategy 2018-2023 (SPS) is a document that sets out the pupil place needs in mainstream schools in Gloucestershire between 2018 and 2023. The SPS examines the duties placed upon GCC by the Department for Education (DfE) and it explains how school places are planned and developed.

<https://www.gloucestershire.gov.uk/media/2085281/gloucestershire-school-places-strategy-2018-2023-final-web.pdf>

- Place Cost Multipliers - The DfE have not produced cost multipliers since 2008/09, so in the subsequent years we have applied the annual percentage increase or decrease in the BCIS Public Sector Tender Price Index (BCIS All-In TPI from 2019/20) during the previous 12 months to produce a revised annual cost multiplier in line with current building costs, as per the wording of the s106 legal agreements. We calculate the percentage increase using the BCIS indices published at the start of the financial year and use this for all indexation calculations during the year for consistency and transparency.

- Pupil Yields - GCC is using the updated Pupil Yields supported by two studies in 2018 and 2019. The updated pupil product ratios (PPR) for new housing are; 30 pre-school children, 41 primary pupils, 20 secondary pupils and 11 post-16 pupils per 100 dwellings. All data/research produced is available from:

<https://www.gloucestershire.gov.uk/media/2093765/gloucestershire-county-council-ppr-report-703.pdf>

- This application has been assessed for impact on various GCC community infrastructures in accordance with the "Local Developer Guide" (LDG) adopted 2014 and updated 2016. The LDG is considered a material consideration in the determination of the impact of proposed development on infrastructure. <https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-localdeveloper-guide-infrastructure-and-services-with-new-development/> The LDG is currently being updated and will include the most up-to-date PPR, which have changed since 2016 as a result of the Pupil Yield studies carried out in 2018 and 2019.

- This assessment is valid for 1 year, except in cases where a contribution was not previously sought because there were surplus school places and where subsequent additional development has affected schools in the same area, GCC will reassess the Education requirement.

- Any contributions agreed in a S106 Agreement will be subject to the appropriate indices.

Site Specific Assessment of Library Provision Requirements:

The nearest library is Oakley Library

Detailed guidance within the GCC Local Developer Guide (LDG) states that:

"New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA)".

The scheme will generate additional users who will need for Library resources calculated on the basis of £196.00 per dwelling:

A contribution of £49,000.00 (250 dwellings x £196) is therefore required to be used at Oakley Library to make this application acceptable in planning terms, in accordance with the GCC LDG, Library Strategy and national guidance.

The nationally recommended benchmark is now available in the publication Public Libraries, Archives and New Development A Standard Charge Approach (May 2010). It sets out a recommended library space provision standard of 30 sq metres per 1,000 population. This is costed at £105 per person. The current GCC figure of £196 reflects the uplift in costs since 2010.

In accordance with the Library Strategy ("A Strategy for Library Services in Gloucestershire 2012, and any updates), where development occurs it will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In this case the proposed development and increase in population will have an impact on resources at the local library and a contribution is required.

Background Library Information:

- Gloucestershire County Council has a statutory duty to provide a comprehensive and efficient library service to all who live, work or study in the County.

- This application has been assessed for impact on various GCC community infrastructures in accordance with the "Local Developer Guide" (LDG) adopted 2014 and revised 2016. The LDG is considered a material consideration in the determination of the impact of proposed development on infrastructure.  
<https://www.gloucestershire.gov.uk/planning-and-environment/planning-policy/gloucestershire-localdeveloper-guide-infrastructure-and-services-with-new-development/> The LDG is currently being updated.

- New development will be assessed by the County Council to determine whether it will adversely impact on the existing provision of local library services. In doing so careful consideration will be given to current levels of provision compared against the nationally recommended benchmark of the Arts Council - formerly put together by Museums, Libraries and Archives Council (MLA).

- A Strategy for Library Services in Gloucester 2012. This strategy for providing library services is set in the context of two main drivers for change; the technological revolution and the financial situation.

<https://www.gloucestershire.gov.uk/libraries/library-strategy-and-policies/>  
[https://www.gloucestershire.gov.uk/media/3413/updated\\_strategy1\\_\\_-64623.pdf](https://www.gloucestershire.gov.uk/media/3413/updated_strategy1__-64623.pdf)

#### Compliance with CIL Regulation 122 and paragraph 56 of the NPPF:

The Community Infrastructure Levy (CIL) is a charge which can be levied by Charging Authorities on new development in their area.

Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms.

They must be:

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

These tests are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a levy charging schedule for the area.

As a result of these regulations, Local Authorities and applicants need to ensure that planning obligations are genuinely 'necessary' and 'directly' related to the development'. As such, the regulations restrict Local Authorities ability to use Section 106 Agreements to fund generic infrastructure projects, unless the above tests are met. Where planning obligations do not meet the above tests, it is 'unlawful' for those obligations to be taken into account when determining an application.

Amendments to the Community Infrastructure Levy Regulations 2010 were introduced on 1 September 2019. The most noticeable change in the amendments is the 'lifting' of the 'pooling restriction' and the 'lifting' of the prohibition on section 106 obligations in respect of the provision of the funding or provisions of infrastructure listed on an authority's published

'regulation 123 list' as infrastructure that it intends will be, or may be, wholly or partly funded by CIL (as a result of the deletion of Regulation 123).

Any development granted planning permission on or after 1 September 2019 may now be subject to section 106 obligations contributing to infrastructure that has already benefited from contributions from five or more planning obligations since 6 April 2010 and authorities are allowed to use funds from both section 106 contributions and CIL for the same infrastructure. However, the tests in Regulation 122 continue to apply.

The Department for Education has updated its guidance in the form of a document entitled "Securing developer contributions for education (November 2019), paragraph 4 (page 6) states that:

"In two-tier areas where education and planning responsibility are not held within the same local authority, planning obligations may be the most effective mechanism for securing developer contributions for education, subject to the tests outlined in paragraph 1 [the 3 statutory tests set out in 1.3 above]. The use of planning obligations where there is a demonstrable link between the development and its education requirements can provide certainty over the amount and timing of the funding you need to deliver sufficient school places. We recommend that planning obligations allow enough time for developer contributions to be spent (often this is 10 years, or no time limit is specified)"

Phasing of payments will be by agreement. These 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.

#### Education Contributions

The education contributions which are based on up to date pupil yield data are necessary to fund the provision of the additional pre-school, primary and secondary school places generated by this development because there is a lack of capacity in the relevant education sectors to address the increase in the numbers of children needing a place at a local school arising directly from this development.

There will be an additional 75 pupils in the pre-school sector, 103 pupils in the primary sector and 78 pupils in the 11-18 secondary sector all needing a place at a local school.

The maximum contribution amount stated in the Education Report is calculated by multiplying the DfE Multiplier\* x Pupil Yield

- Multipliers 2019 (DfE per pupil):  
£15,091.00 - Pre-school/Primary  
£19,490.00 - Secondary 11-16yrs  
£23,012.00 - Secondary 16-18yrs

In updated DfE Guidance on securing developer contributions for education provision, GCC has a duty to ensure early years childcare provision within the terms set out in the Childcare Acts 2006 and 2016. The DfE has scaled up state-funded early years places since 2010, including the introduction of funding for eligible 2 year olds and the 30 hours funded childcare offer for 3-4 year olds. The take-up has been high, which has increased the demand for early years provision and as such developer contributions have a role to play in helping to fund additional nursery places required as a result of housing growth.

Pre-school provision is a very complex area. It is far more open to market forces and parental choice than the Primary and Secondary education sectors and some providers consider certain information proprietary. Early Years providers have no statutory duty to

inform GCC of vacancies and data can change regularly dependant on parents work arrangements and their take up of the funded places.

The forecast data for early years/pre-school shows that there are 1215 children aged 0-4 years old in the Primary Planning Area and a total of 757 childcare places. As such the current population is significantly higher than the number of places available.

The nearest primary school is St Mary's CofE Infant and Prestbury St Mary's Junior Schools in the Whaddon Primary Planning Area. The forecast data shows that the schools have no spare capacity showing in the penultimate forecast year, and when the cumulative yield from other developments is applied it shows a shortfall of 59 places, before the addition of this development. The numbers on roll in Jan 2020 are higher for both infants and junior schools than the stated building capacity for all but 1 forecast year.

The forecast data for Secondary shows that the Pittville School which is the nearest Secondary is forecast to be over capacity before the yields from this development will have an impact. The school has made changes to address increasing demand and there is no spare capacity to accommodate children arising from this development. The building capacity is exceeded for all for the next 5 forecast years

The education contributions requested are directly related to the proposed development in that they have been assessed against the local forecast data and current school capacity and the contributions have been calculated based on specific approved DfE multipliers and formulas relative to the numbers of children generated by this development.

Any existing capacity has been accounted for and the contributions requested are specific to the additional places required arising from this development. The contributions will be required to be paid on specific triggers relative to the progress and impact of the development. This will enable the Education Authority and local schools to plan appropriately and in a timely way to provide for the additional capacity to accommodate additional children arising from this development.

The contributions are necessary to make the development acceptable in planning terms because they will be paid to the County Council in a timely way as the development progresses and allocated and spent towards improving capacity and suitability at the local schools in the school planning area to enable children from this development to attend a local school. Without these contributions, the local schools would not be able to provide for and accommodate the additional growth resulting from this development.

The contributions are fair and reasonable to mitigate the impacts of the proposed development because they only relate to the additional pupils arising directly from this development to cover the costs of the extra places that will be required. The amount of contribution is based only on the numbers of additional pupils arising from the proposed qualified dwellings. The calculations result from recent evidence based studies undertaken by the Education Authority and by updated DfE Pupil multipliers.

#### Library Contributions

The contribution towards the nearest library which is Oakley Library is necessary to make this development acceptable in planning terms.

The contribution would be used to offer public access to library services from this location to complement the existing education-related support services that are currently available. Contributions would be towards stock, IT and digital technology, and increased services to mitigate the impact of increasing numbers of users directly arising from this development.

The contribution is reasonable and fair in scale being calculated by reference to the Public Libraries, Archives and New Development A Standard Charge Approach (May 2010).

### CIL/S106 Funding Position

There are currently no mechanisms or mutually agreed financial arrangements in place between the LPA as CIL Charging Authority and GCC to fund GCC strategic infrastructure from the CIL regime to mitigate the impact of this development as it occurs.

The level of CIL charged on a development is unlikely to cover the amount of developer contributions that would be required to contribute towards the strategic infrastructure necessary to mitigate the impact of this development.

### **Tree Officer**

*6th August 2020*

The CBC Tree Section acknowledges that this proposal does not involve the removal of TPO'd trees situated within the site and appears to have made trees a significant site constraint when initially designing the site.

However, whilst the green nature of much of the site is proposed for retention, the proposal as a whole, will involve substantial tree removals. The true extent of such removals is not easily apparent. Please could a tree and hedge retention and removal schedule and map be submitted as a part of this planning application. The true extent of the implications on trees of the application should then become more apparent and easier to assess. This retention and removal schedule should then be used as a part of an Arb Implications Assessment, which should then be able to demonstrate the 'overall net gain of trees and shrubs' referred to in the landscape strategy drawing. This net gain should be in terms of canopy cover, not tree/hedge numbers removed versus trees/shrubs planted.

Whilst the area proposed for open space and natural play provision is also welcome, it is noted that in many of the trees in the more densely wooded areas do not appear to be appropriate for such natural play. Many of the trees within this area are over-mature and are in a poor structural condition. Indeed many of the trees are ash and as such their long term future life expectancy is limited (due to Chalara). Several ash trees on site are already showing significant symptoms of Chalara die-back.

In several incidences, it is noted that TPO protected trees are to be retained and built around. Whilst such development maybe outside the Root Protection Area of these trees, the trees appear to be a 'visual focus' for adjacent dwellings. However, the trees concerned are delicate and fully/over-mature. The areas beneath the canopy and adjacent should not become play/leisure areas. Should this happen, it can lead to unwelcome requests to heavily prune in an attempt to make the area a 'more safe' place to play. Such pruning can be inappropriate from an arboricultural perspective. Indeed encouraging play so close to such mature and delicate trees can have a negative impact in terms of soil compaction, soil damage (fires/spillages/bark damage/vandalism etc). Deterrent planting under the canopy should be considered so as to strongly discourage such play (as well as to improve bio-diversity).

It is noted that the soil has a high proportion of clay. Oak roots are extremely adaptable (more than most tree species) at seeking out new sources of water a long way from the trunk. Unless building foundations are designed to take account of this soil, it is likely that there will be future claims for tree removal as a result of subsidence to such buildings.

Whilst the MHP tree survey appears detailed and comprehensive, no programme of works has been recommended should the application be granted. It would be helpful to the Arb Implications Assessment if all such necessary and desirable pruning is to be detailed.

Given the apparent clay based nature of the soil, and the extensive proposed tree/hedge planting, if such a planting scheme is to succeed, carefully chosen palette of

tree/shrub/hedge species must be considered. Many such species do not easily thrive on clay soil and such species should not be considered. Similarly, an indication of the size of proposed trees and hedges should be made. Small trees establish and grow much more quickly than large ones, but there is an obvious diminished visual landscape impact of such small tree planting.

All tree/hedge planting must have appropriate and rigorously maintained protection especially from deer which can instantly decimate a growing tree population.

Appropriate heads of terms to address a short, medium and long term management plan should be submitted and agreed as a part of this application.

The proposal for oak trees to predominate the planted open space areas is welcome.

Several trees are marked within the tree survey as being beyond the site boundary. Whilst they are beyond the fence-line, is it definite that such trees are outside of the site? If this is the case, the owner (Gloucestershire Highways?) must be identified and made aware of their current and future responsibilities re future management of such trees. It would be preferable if such tree ownership were brought within the site.

*14th August 2020* - To clarify (and extend) my requested tree removal and retention plan, it would also be helpful if the Veteran Tree Buffer (VTB) for veteran trees identified within the MHP tree survey were marked on this drawing.

It would also be helpful if the trees position could be marked (with the VTB also shown) on the proposed illustrative master plan- i.e. so we can see the position of all trees within the context of their proposal-but also and especially with regard to the VTB of veteran trees.

*30th September 2020*

The submission of a Tree Removal and Retention plan as well as an Arboricultural Implications Assessment is appreciated and makes the overall assessment of the suggested impact on trees within and adjacent to the site easier to assess.

It is considered that G12 (currently due for retention) is likely to have to be removed due to the nature of the species and the condition of the trees within. As such, the predicted overall retained canopy area of the site will be reduced from the figure shown.

There is a significant population of ash trees within this site. Whilst not as a direct result of this proposed development, there is no reason to suppose (drawing from lessons elsewhere in the country) that this ash tree population will not have to be removed as a part of ash die back management over the next decade or so. Consequently, the nature of the proposed site will change significantly. It is also considered that the upper southern slopes (towards Harp Hill) are quite steep for traditional recreational play/leisure. As such the large proposed grassland and open areas towards the south should be more densely planted with new tree planting. This will help screen this proposal from higher elevations but also help retain a rich arboricultural fabric throughout the site as well as reduce the rate of rain water run-off, reduce wind speeds, improve ecology and all the usual tangible natural benefits of tree planting but also provide for a more pleasant natural environment. Landscape architects should not necessarily be bound to providing native tree planting within this natural recreation space.

Whilst it is conceded that possible future inappropriate pruning of high value TPO'd trees can be controlled through the usual TPO process, it is also reasonable to suggest that this council may be under frequent and significant requests to prune/fell. This can be reduced through appropriate barrier planting as well as fencing etc at development stage. It is suggested that a firm commitment is made which will give rigorous physical protection to such trees in residential areas. This commitment must be detailed in short, medium and

long term management plans. The heads of terms of such management plans are requested as a part of this application.

Whilst it is shown that Highway trees on the site perimeter on Harp Hill are to be retained, it would be preferable from a homogenous management perspective if such trees could be brought under management of the site as a whole.

It is conceded that detailed pruning, foundation design detail and tree planting species detail can be left to any future "Reserved Matters" application.

### **Gloucestershire Centre for Environmental Records**

*27th July 2020*

Report available to view on line.

### **The Woodland Trust**

*13th August*

Objection - potential for damage or loss of veteran trees

The Woodland Trust is the UK's leading woodland conservation charity. The Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering around 24,000 hectares (59,000 acres) and we have 500,000 members and supporters.

We are contacting you in relation to this application on account of the potential for the application in question to result in adverse impacts on a number of veteran and notable trees. While we are encouraged by the Arboricultural Survey and Statement submitted as part of this application and the identification of veteran trees as part of this assessment, it is not clear whether the applicant will be following the advice and guidance of the consultant who wrote the assessment.

As part of the aforementioned survey, the applicant's consultant has rightly sought to identify whether any of the trees on site are registered to our Ancient Tree Inventory (ATI), and having found no records they have themselves identified the following eight trees as veteran specimens: T18, T28, T35, T37, T52, T63, T68, and T72. A further three trees, T14, T38 and T45, appear to be notable trees that are likely to become veterans in the future given space to grow and develop ancient characteristics. It should be noted that the ATI is not a comprehensive database and is reliant on the public adding records of trees, so it is not unusual for veteran trees to not be recorded on the ATI database.

While a survey and report has been produced, it appears that the applicant has not provided any clearly labelled plans or maps to mark out the location of the surveyed trees in respect to the proposed dwellings and other infrastructure proposed as part of this application. In other words there are no plans to indicate that the development will ensure the retention of these veteran trees or provide veteran tree buffers as required by Natural England's standing advice (<https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>).

In the absence of such plans, we have to presume that the identified veteran trees could be under threat of loss from proposed development or damage from encroachment within their buffers. Until such plans have been produced to make it clear that the identified veteran trees will be retained and afforded appropriate veteran tree buffers, then the application in question should be rejected.

This is in line with National Planning Policy Framework (NPPF), paragraph 175, which 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;"

The development in question does not fall within the definitions of being exceptional development (defined in Footnote 58 of the NPPF). As such, the potential for this development to impact on veteran trees means it should be refused on the grounds it does not comply with national planning policy.

Ancient, veteran and notable 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 veteran and notable trees on this relatively small site makes the site and the assemblage of trees particularly valuable for wildlife.

In summary, the Trust will maintain a holding objection to this application until it has been made clear that the development will not impact on these irreplaceable veteran trees.

We hope you find our comments to be of use to you. Please do not hesitate to get in contact with the Trust if you have any questions or concerns regarding the comments we have provided.

### **Landscape Officer**

*6th August 2020*

These are our main thoughts regarding the current application.

LOCATION: Oakley Farm Priors Road Cheltenham

- o The survey assessing the existing vegetation is not detailed.
- o The proposal does not maximise retention of significant (important, best, good high quality) vegetation which helps retain the original landscape pattern.
- o Does the built form layout relate to the landscape retained & new?
- o Does the perimeter vegetation retained & new relate to the development and the land uses adjacent outside the site?
- o Does it provide sufficient screening / privacy where required and good visual connection where appropriate?
- o What type of planting for what purpose?
- o Does the strategy look like it will succeed in what it is trying to achieve? I.e. screen where it needs screens, provide woodland where it is supposed to be a woodland, hedge where it is a hedge etc. -and in this case in particular, retain a tree where it shows a retained tree (root protection areas)?
- o Do the larger areas of open space provide good amenity and good habitat, good access, protected from vehicles, are they maintainable?
- o What does the street space landscape look like, is this appropriate?
- o Land form and landscape features - are these retained and integrated into the layout?
- o Does the build form relate to the gradients / contours?
- o Is there good access for pedestrians / cyclists within the site and to outside destinations, both for practical purposes and recreation purposes; if I want to walk my dog is there a network of circular routes?
- o How is water managed, from roofs, roads & grass? Are balancing ponds useful features when dry integrated with the development providing amenity and habitat?
- o What are the provisions for more formal recreation play areas?

**Parish Council**  
*20th August 2020*

Objection:

The site is in the Cotswolds AONB. While it is almost surrounded by development, this was the case when the site was included in the AONB and confirmed in the 1990's, so nothing has changed from when it was deemed important enough for AONB status, save that the GCHQ site has been replaced by retail and housing.

The area was described as having High Landscape value in the 'Ryder' report, and again, nothing has changed to alter that.

The proposal describes the development as being on the lower slopes, when in practice it covers two thirds of the site.

Clause 12 of the NPPF states: 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.' The area is not listed as suitable for development in either the Cheltenham Plan or the Joint Core Strategy.

Clause 172 of the NPPF states: 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues'. This proposal can in no way be seen to conserve or enhance the AONB.

The proposal would result in huge loss of amenity for surrounding residents, particularly those on Harp Hill, Pillowell Close, Brockweir Road, Bream Court, Highnam Place, Birdlip Road and the top of Wessex Drive, changing the aspect of their homes from being on the edge of the countryside to being surrounded in sub-urban sprawl.

With regard to traffic, the proposed development will not be served by public transport, so it is reasonable to assume an average of two cars per household, the bulk of which would leave the site between 07:00 & 09:00 for commuting to work and / or taking children to school.

Using Harp Hill as the access point means that traffic will enter the wider road network either via Mill Lane, leading to Ryeworth Road or Glenfall Way, Greenway Lane, or the bottom of Harp Hill at Priors Road. Mill Lane is clearly not suitable for a large volume of traffic. Greenway Lane is already heavily congested at the Sixways junction during rush hour. This means the bulk of 250 vehicle movements per hour will use the Harp Hill junction with Priors Road. That is an additional vehicle every 15 seconds. This increase in traffic volumes would result in large scale congestion with the resultant noise and pollution increases for the residents on the affected roads.

**Gloucestershire Wildlife Trust**  
*17th August 2020*

I can confirm that I have reviewed this application on behalf of Gloucestershire Wildlife Trust and the trust will not be taking a stance either in favour or objection. Based on the plans submitted it is unlikely the development will have a significant impact on designated biodiversity sites, priority habitats, threatened species or ecological networks. However, due to the size of the development the Trust recommends that opportunities for ecological

enhancement through the provision of high quality Green Infrastructure should be included. This should align with the Nature Recovery Network.

It should be noted that Gloucestershire Wildlife Trust can only comment on impacts to wildlife, which is our area of expertise and the charitable objective of the Trust. The Trust cannot take a view about impact on landscape character, aesthetics, flooding, recreational greenspace or green belt unless there is also a significant impact on wildlife.

## **Minerals and Waste Policy Gloucestershire**

*17th July 2020*

### Minerals and Waste Policy officer comments

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

A waste minimisation statement accompanies the planning application. However the statement does not give specific details on the waste tonnages that will be generated, which is a requirement of the adopted Waste minimisation in development projects (SPD). This is also supported by two local development plan policies - Gloucestershire Waste Core Strategy Core Policy 2 | Waste Reduction and Minerals Local Plan for Gloucestershire Policy SR01 | Maximising the use of secondary and recycled aggregates.

### Recommended action

If the case officer is minded to approve the application then the condition below should be attached.

Conditions recommended by officers on behalf of the MWPA (if advised) Application including a Waste Min. Statement but without volumes of waste likely to be generated:

Condition:

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

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

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

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

## **Architects Panel**

*11th August 2020*

Design Concept As this application is for approval of access only with all other matters reserved for future consideration, the panel agreed there was insufficient information presented with the application to be able to provide meaningful comment.

As the site is within the AONB the design merits being reviewed as a whole.

There is no justification to establish the site as a residential site.

#### Design Detail

Whilst a notional site development layout has been submitted with the application, and some preliminary landscape design proposals, more detailed analysis is required, in particular site sections, to show the existing site context and the impact of the development. The very steep new roads, their position and layout, together with the housing layout, could potentially have a harmful impact on the setting.

Recommendation: Withdraw the application and submit a Full Planning application when the scheme has been fully designed.

### **Social Housing**

*19<sup>th</sup> August 2020*

#### Level of Affordable Housing Provision:

Based on a scheme of 250 residential units we will be seeking 40% affordable housing in line with JCS Policy SD12: Affordable Housing (100 affordable homes).

The Council will also explore with the developer, Homes England and local Registered Providers regarding the possibility of securing additional affordable housing units on the site.

The Council interprets that latest LHNA that has been commissioned also requires a mix of 70:30 rented to intermediate housing. This mix strikes a balance between fostering cohesive, resilient communities and meeting affordable housing needs.

#### Dwelling Mix

Having regard to local needs and a mix of 70:30 rented to intermediate housing, we would seek the following mix of affordable dwellings on a policy compliant site:

The Council	40% affordable (100 affordable homes)	Social Rented	Shared Ownership (let in line with CFG)	Totals:	As % of total affordable.
Ouncill	1b2p Ground Floor Maisonette, M4(2) Cat 2, 50m2.	8	0	8	24
Willing	1b2p Upper Floor Maisonette, 50m2.	8	0	8	
Als	1b2p Bungalow M4(3) Cat 3b, 60m2	2	0	2	
Ox	1b2p Bungalow M4(2) Cat 2, 50m2	6	0	6	42
Plo	2b4p House, 67m2	6	10	16	
re	2b4p House, 79m2 (M4(2) Cat 2)	8	8	16	
it	2b4p Ground Floor Maisonette 71m2 M4(2) Cat 2	5	0	5	
h	2b4p Upper Floor Maisonette 71m2	5	0	5	
e	3b5p House, 82m2	7	8	15	
lo	3b5p House M4(2) Cat 2	4	0	4	
r,	3b6p House, 95m2,	4	4	8	
Ho	4b7p House, 108m2.	6	0	6	6
es	5b8p House, 121m2	1	0	1	1
<b>Totals:</b>		70%	30%	100	

### 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:

JCS Policy SD11 sets out that development should address the needs of the local area, including older people, as set out in the local housing evidence base including the most up to date SHMA.

The Council's preferred dwelling mix is found above and has been informed by a number of evidence bases that are reflective of affordable housing need of the Borough.

First and foremost, this mix has been informed by the Council's Housing Register, which, as of July 2020 indicated that 2,205 households were in affordable housing need in

Cheltenham Borough; of these, 1,162 households were in 1 bedroom need, 630 households were in 2 bedroom need, 302 households were in 3 bedroom need, and 112 households were in 4+ bedroom need.

When deciding upon an appropriate affordable housing mix, it is also useful to consider the 'churn' and waiting times of affordable homes in the Borough, which indicates the availability of certain property sizes for households in affordable housing need.

Considering the churn of affordable homes in the Borough, the latest Locata reports indicate that, of 1,874 lets completed between 01/01/2016 and 30/07/2020 in Cheltenham Borough, only 50 lets were for 4 bedroom affordable homes (3% of total lets) and 4 (0.2% of total lets) were for 5 bedroom homes. For the sake of comparison, in the aforementioned timeframe the Council let 343 three bedroom affordable homes (18% of total lets) and 730 two bedroom affordable homes (39% of total lets), with the remaining 747 lets completed (40% of total lets) being for 1 bedroom affordable homes. Whilst it is recognised that not all of these lets will relate directly to new-build affordable homes, it is nevertheless important to consider churn as an indication of the availability of affordable homes for households in need in the Borough.

Moving onto examine the waiting times for the allocation of affordable homes in Cheltenham Borough between 01/01/2016 and 30/07/2020, a clear trend emerges surrounding extended waiting times for households in 4 and 5 bedroom affordable housing need compared to those requiring smaller affordable homes. Case and point, the average wait for a 1, 2 or 3 bedroom home ranged between 7-14 months in this period, compared to an average wait of 18 months for a 4 bedroom affordable home or 32 months for a 5 bedroom affordable home in the Borough.

The Council has also drawn upon past delivery of affordable homes in Cheltenham Borough when deciding upon a mix that best accommodates local affordable housing needs. Between 2011/12- 2019/20, the Council has delivered 32 four bedroom + homes (approximately 5% of overall delivery). However, despite this delivery, clearly a significant need for larger affordable homes still exists.

Figure 59 of the 2020 Gloucestershire LHNA also provides a basis for establishing an appropriate dwelling mix, when considered in a holistic manner with other databases indicating affordable housing need. The LHNA reflects that Cheltenham Borough has a need to deliver 1,510 rented homes between 2021-41; of these, the LHNA identifies a need for approximately 534 (35%) 1 bedroom affordable homes, 481 (32%) 2 bedroom affordable homes, 265 (18%) 3 bedroom affordable homes and 230 (15%) 4+ bedroom affordable homes.

The Council's mix also indicates clear preference for providing a contingent of 1 bedroom bungalows, on the grounds of providing an attractive offer for downsizers (with 57 downsizers currently on the Housing Register for 1 bedroom accommodation). Cheltenham Borough's emerging evidence base, the 2020 Gloucestershire LHNA, supports this approach, noting that for every bungalow built, a large affordable home is released into the wider affordable housing stock.

Taken altogether, these evidence bases have been balanced against housing management implications for RP's to inform the Council's preferred affordable housing mix found on Page 1.

## Rents

The 2015 SHMA Update Note indicates a substantial need for rented affordable housing in Cheltenham Borough with particular emphasis upon the need for social rented homes. Case and point, of 707 households in need of affordable housing each year in Cheltenham,

Table A1.12 states that 76% of Cheltenham Borough Council's total affordable housing delivery (537 Affordable Homes per annum) should be in the form of Social Rent, compared to 15% for Affordable Rent respectively.

In addition to the above, the Council's emerging evidence base, the 2020 Gloucestershire LHNA (which has been signed off, but is not yet publically available) indicates that Cheltenham Borough has an overriding need to deliver social rented homes to meet affordable housing need. Figure 86 reflects that, between 2021-41, Cheltenham Borough has a need for 1,511 rented homes, of which 1,325 new affordable homes should be provided in the form of Social Rent, which forms 88% of Cheltenham's rented need. Accordingly, the Housing Enabling team will seek the entire rented provision on this scheme in the form of Social Rent to best accommodate identified affordable housing needs.

In particular, the emerging LHNA makes a compelling case for delivering 1 bedroom and 4 bedroom + units at Social Rented levels. Addressing the case for delivering 1 bedroom affordable homes at social rent, The LHNA identifies that an annual income of £15,762 is required to rent a 1 bedroom Affordable Rented property in Cheltenham Borough, however, the maximum annual income for housing benefit support in the Borough for a 1 bedroom household ranges between £12,791 and £14,970. This leaves a shortfall of £792-£2,971 between the maximum housing benefit support a household can receive and the annual income required to ensure that households were not spending more than 35% of the gross annual income on their housing costs. Accordingly, providing 1 bedroom affordable homes at social rented levels will ensure that they are genuinely affordable for households in affordable housing need.

Equally, due to the impact of the benefit cap upon larger households, the Council is also justified in seeking 4 and 5 bedroom affordable homes to be provided at Social Rented levels.

Consulting with RP's has testified to the fact that providing the entirety of the rented provision at social rented levels will also provide wider benefits beyond meeting affordable housing need. For instance, whilst in theory, housing costs should be covered in full by housing benefit at affordable rented levels, where households are working part-time, housing benefit is correspondingly reduced, meaning that housing costs take up a greater percentage of household earnings, which, in turn, is likely to lead to households falling into housing stress and threatening the sustainability of their tenancy.

Equally important, by providing the affordable homes on this development at social rented levels will reduce the burden upon housing benefit (by granting households greater disposable income due to the lower rental levels associated with social rent).

The Council are keen to take steps to ensure that tenancies are sustainable, as this will help contribute towards creating cohesive, resilient communities which, in turn will aid all residents in reaching their potential. Therefore, by providing affordable homes at Social Rented levels, households are likely to have increased levels of disposable income and a better quality of life.

### 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

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. Additionally, Shared Ownership homes should be let in line with the latest Capital Funding Guide (CFG) from Homes England.

Examining the latest figures provided by Help to Buy South Agent 3 to address Cheltenham's need for Shared Ownership homes reveals that 513 households specifically required Shared Ownership homes, (not including 195 households who applied for any scheme). Of these 513 households, the majority required a 2 bedroom Shared Ownership home, with 303 households (59% of total households) stating this preference.

Addressing the need for 1, 3 and 4 bedroom Shared Ownership properties in Cheltenham Borough, Help to Buy South Agent 3's statistics indicate that 94 households (18% of total households) required a 1 bedroom Shared Ownership home, 110 households (21% of total households) required a 3 bedroom Shared Ownership home, and 6 households (1% of total households) required a 4 bedroom Shared Ownership home.

Considering the preferences of those in Shared Ownership need, 75% of those in 2 bedroom need stated a preference for a house, with only 8% stating a need for a flat. Equally, no households in 3 bedroom need stated a preference for a 3 bedroom Shared Ownership flat, and, as such, the Council would also expect these properties to be houses.

### Car Parking

Parking provision for affordable homes will be expected to be made on the same basis as that provided for market dwellings.

The Council would prefer on-plot parking wherever possible.

### 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 England. JCS Policy SD11 states that housing should be designed to be accessible and adaptable as far as is compatible with the local context and other policies.

Amendments to M4(1), M4(2) and M4(3) of Schedule 1 to the Building Regulations 2010 took effect on 1<sup>st</sup> October 2015 therefore we would seek the Council's preferred mix found on Page 1.

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.

Cheltenham's emerging evidence base, the 2020 Gloucestershire LHNA identifies that, between 2021-41, there is a need for 67% of all new development across Gloucestershire to meet M4(2) Cat 2 standards.

Looking at Cheltenham's needs specifically, the LHNA notes that Cheltenham Borough has a need to deliver 7,215 M4(2) Category 2 homes between 2021-41 (361 M4(2) Cat 2 dwellings per annum). It therefore follows that the Council will seek to maximise the provision of new M4(2) Category 2 affordable homes on this development scheme.

Scrutinising the need for M4(2) Cat 2 dwellings on a Borough-wide level, as informed by Homeseeker Plus data, the latest data indicates that 183 households in Cheltenham Borough require a 1 bedroom affordable ground floor flat or lift (level access accommodation), 51 households require a 2 bedroom affordable ground floor flat/lift, and 20 households require a 3 bedroom level access home. Clearly, these figures indicate a significant level of need for level access accommodation across 1, 2 (and to a lesser

degree) 3 bedroom affordable homes, which has been reflected in the ideal affordable housing mix found on Page 1.

Assessing the need for accessible, level access M4(2) Category 2 accommodation on a parish level (Charlton Kings), 45 households required a 1 bedroom affordable ground floor flat/lift (level access accommodation), 11 households require a 2 bedroom level access home, and 5 households require a 3 bedroom level access home. Therefore, considered in both the context of meeting Borough wide and local parish needs, there is a significant unmet need for M4(2) Category 2 properties on this development.

The Council would also be keen to explore the potential for straight staircases to be installed on the top floor of all maisonettes to facilitate easy adaptation for dwellings to meet M4(2) Category 2 standards (as updated from time-to-time) with Disabled Facilities Grant if and when required. This will enable households to maintain their tenancies and live sustainably for longer, as well as allowing households to access the entirety of their homes without restriction.

This approach is justified on the grounds of facilitating households to access the entirety of their property, free from any restraints in entering and exiting their home. In a day-to-day context, providing a significant number of M4(2) Category 2 accessible homes to meet identified needs will allow households to have socialise with friends, study in a comfortable environment and move freely about their home.

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. The size standards expected from these dwellings has been set up in the affordable housing dwelling mix found on page 1.

Under the Public Sector Equality Duty found within the 2010 Equality Act, the Council has an obligation to, when exercising its functions (such as negotiating on affordable housing provision);

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under this Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

The 2010 Equality Act goes on to state that Local Authorities (when exercising public functions, such as negotiating on affordable housing provision) should...

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons who share a relevant protected characteristic to participate in public life or any other activity in which participation by such persons is disproportionately low.

Our latest evidence base, the 2020 Gloucestershire LHNA, forecasts a need for Cheltenham Borough to deliver 213 M4(3) Category 3 affordable homes between 2021-2041 (an average of 11 per annum).

Reflecting upon the current for affordable M4(3) Cat 3 wheelchair accessible homes, the Council finds that as of July 2020, 57 households across the Borough are in need of wheelchair accessible accommodation. The majority of this need falls into 1 bedroom (32 households), with a lesser degree of need found in 2 and 3 bedrooms respectively.

The Council's ideal mix of wheelchair accessible dwellings is also informed by constrained past delivery of wheelchair accessible affordable homes in Cheltenham Borough. In this case, the Borough's affordable housing quarterly returns reflect that, in the period between 2011-12 and 2019-20, Cheltenham Borough Council has delivered 8 wheelchair accessible affordable homes. In essence, this means that there is likely to be a shortfall in the current provision/availability of wheelchair accessible homes in Cheltenham Borough that must be addressed, in part through new delivery where a need for these homes arises.

To this end, the Council will seek 2 x 1 bedroom wheelchair accessible M4(3) Category 3b wheelchair homes to meet the Borough-wide need for these dwellings. By delivering these affordable homes for wheelchair users, the Council will also be meeting its obligations under the 2010 Equality Act.

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.

#### Design, Clustering and Layout:

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.

Furthermore, affordable housing should also be provided on-site and should be seamlessly integrated and seamlessly distributed throughout the development scheme to the extent that the development is tenure blind, and the affordable homes are visually indistinguishable from their affordable counterparts.

In line with the JCS clustering strategy, the Council will expect that each cluster of Affordable Housing Units shall not exceed eight (8) units unless otherwise agreed in writing by the Council.

The JCS clustering strategy also clarifies the Council's expectation that no group of Affordable Housing Units will be located contiguously to any other group of Affordable Housing Units.

Further guidance on appropriate clustering and/or layout of the affordable homes on this development scheme can be provided by the Housing Strategy and Enabling Officer upon request.

The Council will await a more detailed planning layout before commenting further upon the distribution and layout of the affordable homes.

#### Full Planning Application

On submission of a full planning/revised matters application we would require an Affordable Housing Plan as part of the application, detailing the location of both the market and affordable homes in terms of their type, tenure, accessibility standards 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. 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.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	<b>313</b>
Total comments received	<b>377</b>
Number of objections	<b>371</b>
Number of supporting	<b>1</b>
General comment	<b>2</b>

- 5.1** Letters of notification were sent to 313 properties. In addition, a number of site notices were displayed at various points around the periphery of the site and at the footpath entrance to the site on Priors Road. An advert was also placed in the Gloucestershire Echo. All publicity requirements of the EIA Regulations were also adhered to.
- 5.2** In response to the publicity and during the course of the application, a total of 377 representations have been received (at the time of writing); 371 of which raise objection to the proposals.
- 5.3** The third party objections also include a substantive representation from the local amenity/action group 'Friends of Oakley Farm Pasture Slopes'.
- 5.4** The Parish Council objects to the proposed development; their concerns, in summary, relate to proposed built form covering two thirds of the existing pasture slopes, landscape and visual impact on the AONB, amenities of neighbouring properties, traffic increase and junction capacity. The Council's full comments are set out in section 4.
- 5.5** All representations received during the course of the application have been made available to Members separately. In summary, the concerns raised relate to (but are not limited to) the following matters:
- Loss of AONB and greenfield site
  - Impact on landscape quality, visual amenities, character and appearance of AONB
  - Visual impact and urbanising effects of proposed development
  - The special circumstances that would allow major development in AONB have not been provided.
  - Proposals contrary to national and local planning policy and Cotswold AONB Area Management Plan for development within AONB and findings of the Council's 'Landscape Character, Sensitivity and Capacity Assessment of Cotswold AONB within Cheltenham Borough Administrative Area'.
  - Impact of proposals on mental and physical well-being
  - Site not allocated for housing in local plan/JCS and located outside PUA
  - Loss of farmland and development on a greenfield site inappropriate
  - Topography/steep slope of site unsuitable for residential development
  - Lack of infrastructure proposed and pressures on existing schools, community services and utilities
  - Increase in traffic, speed of traffic, unsuitability of Harp Hill/Greenway Lane, proposed access from Harp Hill and pressures on local road network. Congestion at Priors Road roundabout and other road junctions. Highway safety implications and safety of pedestrians and cyclists.
  - No footpath/pavement linking application site to public highway
  - No greenspace/parkland buffer proposed adjacent to Oakley Grange
  - Ecological harm, loss of (Veteran) trees, hedgerow, wildlife, habitat, flora and fauna.

- Overdevelopment, increase in density and cumulative impacts of other recent development
- Indicative scheme is of poor design and layout and fails to adhere to principles of good urban design
- Impact on designated Heritage Assets – grade II listed Hewlett’s Reservoir
- Impact on drainage and flooding in area,
- Environmental pollution – air quality, traffic pollution, light and noise emissions
- Loss of privacy and outlook from neighbouring properties
- Disturbance, heavy traffic and damage to nearby properties during construction programme
- Development should be planning-led

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

**6.2** The key issues relating to this proposal are:-

- the principle of the redevelopment of the site for housing;
- housing need including affordable housing provision
- the impact of the proposals on the beauty and landscape qualities of the Cotswold AONB including visual impact ;
- the size/scale/density of development proposed;
- impact on designated heritage assets;
- archaeology
- wildlife, habitats and biodiversity;
- removal of trees and hedgerow;
- drainage and flood risk;
- access, traffic and highway safety;
- infrastructure and services provision including education;
- environmental pollution and site contamination
- impact on amenities of adjoining land users.

**6.3** Note, that the above considerations are not listed in any particular order of importance or relevance.

### **6.4 Policy Background/Principle of Development**

**6.5** 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.

**6.6** The development plan comprises of the Cheltenham Plan (CP) (adopted 2020) and adopted policies of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) (adopted 2017). Material considerations include the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG), the Cotswold AONB Management Plan 2018-23 (CMP) and the Countryside and Rights of Way Act (CROW).

**6.7** The Council’s Strategic Land Use Officer has commented on the policy implications of the proposed development, as set in section 4 above. These comments should be read in conjunction with the following policy considerations, particularly those in relation to the interpretation of paragraph 11(d) of the NPPF.

## **6.8** Principle/Housing development within the AONB

- 6.9** Policy SD10 of the JCS advises that in Cheltenham on sites that are not allocated, housing development will be permitted on previously-developed land within the Principal Urban Area (PUA). Housing development on other sites will only be permitted where it is infilling within the PUA or affordable housing on a rural exception site or there are other specific exceptions/circumstances defined in district or neighbourhood plans.
- 6.10** The application site is located outside of the PUA and is not previously-developed land or a rural exception site. Nor are there any special circumstances relating to this site identified in the CP. The proposed development is therefore contrary to development plan policy. The principle of the redevelopment of this site for residential purposes must therefore be considered unacceptable.
- 6.11** 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*'. Where policies which are most important for determining the application are out-of-date, the NPPF at paragraph 11(d) advises that planning permission should be granted '*(i) unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*'. This is referred to as the 'tilted balance' and the government's approach to ensuring delivery of housing nationally.
- 6.12** The Footnote 6 protected areas or assets referred to at (i) above are, in this case, the Cotswold Area of Outstanding Natural Beauty, the Grade II listed structures at Hewlett's Reservoir and the Battledown Camp Scheduled Monument.
- 6.13** Footnote 7 of NPPF paragraph 11 explains further that for applications involving the provision of housing, relevant policies must be considered out of date in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing.
- 6.14** Cheltenham Borough Council is currently unable to demonstrate a five-year supply of housing land and at the time of writing, the latest figure (December 2019) sits at 3.7 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 engaged. The shortfall position in housing land supply and the contribution of 250 houses in alleviating that shortfall is a material consideration.
- 6.15** The principal reason for the under delivery of housing is that the JCS Strategic Allocations at West and North West Cheltenham have not progressed as intended. The five-year supply trajectory that was adopted as part of the JCS in December 2017 was predicated on these large sites delivering significant amounts of dwellings by 2019. Despite recent progress in these sites coming forwards they will not deliver a significant volume of dwellings for some time yet. It will be very difficult for Cheltenham Borough Council to demonstrate a five-year land supply until they do. This application must be determined in this context regardless of how recently the Cheltenham Plan was adopted or other outside factors.
- 6.16** As mentioned above, the application site is designated land and lies wholly within the Cotswold AONB. The site's designated status means that NPPF paragraph 11(d) (i) and (ii) apply; planning permission should be granted unless policies in the NPPF that protect areas or assets of particular importance provide 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 of the Framework.

- 6.17** Paragraph 172 of the NPPF states that '*great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues*'. The scale and development within an AONB should be limited and planning permission refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. Paragraph 172 goes on to advise that consideration of such applications should include an assessment of:-
- *The need for the development, including in terms of any national considerations and the impact of permitting it, or refusing it, upon the local economy;*
  - *The cost of, and scope for, developing outside the designated area, or meeting the need for it some other way; and*
  - *Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated*
- 6.18** In addition, there will need to be consideration of NPPG guidance which states that AONBs '*are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas*'.
- 6.19** Each of the points raised by paragraph 172 and the extent to which the proposed development adheres to the Framework policy will be discussed in turn.
- 6.20** Whether a proposal constitutes major development within an AONB is a matter for the decision maker. In this case, the proposed development constitutes major development by virtue of the number of dwellings proposed, the location, size and setting of the application site and the potential significant visual and landscape impacts arising from the proposals which in turn would have an adverse impact on the purposes for which the area has been designated (NPPF Footnote 55).
- 6.21** Therefore, the first step in considering this application is determining whether exceptional circumstances exist which would outweigh the great weight attached to conserving and enhancing the AONB. If exceptional circumstances exist, the considerations should then take into account whether the development is in the public interest.
- 6.22** The 'exceptional circumstances' put forward by the applicant include the provision of housing (including affordable housing) and its contribution to the Council's housing land supply and local housing needs. From the applicant's perspective, the need for the development in terms of any national considerations and impact on the local economy appear to be justified on this basis.
- 6.23** Officers consider that housing provision and the contribution of 250 dwellings towards meeting housing land supply requirements is significant but cannot on its own be an exceptional circumstance. The shortfall in housing land supply could be met via the development of other sites within the JCS area, including allocated sites for housing. The shortfall in housing land supply should not necessitate the release of land within the AONB, particularly at the scale proposed.
- 6.24** In this regard, the applicant has not explored fully the cost or scope for developing outside of the AONB or meeting the need for it in some other way. Therefore, it has not been demonstrated that the need for housing cannot be provided elsewhere.
- 6.25** The ES concludes that whilst there would be harm to the AONB, the proposed mitigation/moderation of any detrimental effects on the AONB would offset that harm. The impacts of the proposed development on the landscape qualities of the AONB are discussed in full in section 6 of this report.

**6.26** Furthermore, officers have not considered the 3 individual points for assessment included in NPPF paragraph 172 in any order of importance (in terms of the weight that should be attached to them), and nor do officer consider that the assessment should be limited to the criteria listed.

**6.27** In light of the above policy background, the acceptability of the proposed development and principle of residential development on this site must be considered very carefully.

### **6.28 Impact on AONB**

**6.29** The application site is located within the Cotswolds AONB Landscape Character Type 2 (Escarpment) and Landscape Character Area 2c (Escarpment: Coppers Hill to Winchcombe).

**6.30** JCS Policy SD7 states that:-

*All development proposals in or within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.*

**6.31** Policy L1 of the Cheltenham Plan states that ‘*development will only be permitted where it would not harm the setting of Cheltenham including views into or out of areas of acknowledged importance*’. The supporting text to L1 emphasises the need to continue the protection of the town’s setting and encourage its future enhancement through sensitively designed and located development; and in doing so protect views into and out of the AONB. Paragraph 8.3 of the Cheltenham Plan comments on the particular importance of protecting the scarp as the dominant feature of Cheltenham’s setting; the Council concerned at the cumulative effect of even small-scale development and of development in new locations within the AONB.

**6.32** Policy CE1 of the Cotswolds AONB Management Plan 2018-23 requires:

*1. Proposals that are likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to, be compatible with and reinforce the landscape character of the location, as described by the Cotswolds Conservation Board's Landscape Character Assessment and Landscape Strategy and Guidelines.*

*2. Proposals that are likely to impact on, or create change in, the landscape of the Cotswolds AONB, should have regard to the scenic quality of the location and its setting and ensure that views - including those into and out of the AONB - and visual amenity are conserved and enhanced.*

**6.33** Policy CE3 says:

*1. Proposals that are likely to impact on the local distinctiveness of the Cotswolds AONB should have regard to, be compatible with and reinforce this local distinctiveness. This should include:*

- being compatible with the Cotswolds Conservation Board's Landscape Character Assessment, Landscape Strategy and Guidelines and Local Distinctiveness and Landscape Change;
- being designed and, where relevant, landscaped to respect local settlement patterns, building styles, scale and materials;
- using an appropriate colour of limestone to reflect local distinctiveness.

2. *Innovative designs - which are informed by local distinctiveness, character and scale - should be welcomed.*

- 6.34** In 2015 the Council undertook a review of the AONB in support of the emerging Cheltenham Plan. This review is published in the Landscape Character, Sensitivity and Capacity Assessment of the Cotswold AONB within Cheltenham Borough (April 2015/updated May 2016) (2015 Ryder report). The application site falls within Local Character Area 7.1 of this document, Oakley Farm Pasture Slopes.
- 6.35** The report concludes that the overall landscape constraint for the character area is major. It considers the site to have a high visual sensitivity and the landscape value to be high. The resulting overall landscape capacity is 'low'. There has been no material change to the landscape character of the site since this assessment.
- 6.36** It is also interesting to note that a section at the far west of the application site was not originally included in the AONB designation. It was added in 1990 when AONB boundary amendments took place. This suggests that the overall landscape sensitivity of the site has increased over the years.
- 6.37** The 2015 Ryder report and its findings are a material consideration in the determination of the proposed development. It provides a useful starting point in which to establish whether the development compromises the principles of conserving the landscape and scenic beauty of the AONB.
- 6.38** Landscape Visual Impact Assessment (LVIA) / Ryder Reports
- 6.39** Section 6 of the ES includes a comprehensive LVIA. This is supplemented by a series of photomontages of the site, including before and after views taken from several vantage points and demonstrating the visual impacts of the scheme at various points in time post development.
- 6.40** The Council's appointed Landscape Architect has provided an overview summary of the landscape section of the ES and has also undertaken an independent landscape impact appraisal of the proposed development (Ryder Overview and Appraisal). He has also commented on the photomontage images provided more recently.
- 6.41** The applicant states clearly within several submitted documents that the landscape and visual effects of the development proposals would result in the loss of sloping pasture which makes a contribution to local landscape character and visual amenity. Officers do not disagree with this statement. However, the applicant considers that the harm would be limited by the extent to which the area is already influenced by existing development, mitigation through retained vegetation and natural topography and the separation of the application site from the wider escarpment landscape and wider AONB. These comments and opinion are not agreed with.
- 6.42** The Ryder Overview concludes that many of the judgements made in section 6 of the ES are under reported in terms of the rating of significance of both landscape and visual effects. A number of visual and landscape receptors are graded by the Ryder Appraisal as receiving a greater degree of effect; the Appraisal considering that Moderate, Adverse and Permanent combined and long term landscape and visual effects would occur to the Oakley Farm Pasture Slopes Landscape Character Area. The Oakley Farm landscape effect would remain higher at Moderate/Major, Adverse and Permanent. This is in contrast to the Minor/Moderate, Adverse and Residual/Temporary effects identified in ES Section 6. The Ryder Overview also comments that there is no conclusion on whether the effects are significant with regards to the overall ES Methodology.

- 6.43** The Ryder Overview challenges the ES conclusions on the cumulative and in-combination effects of the proposals including matters relating to the openness of the site. Ryder considers that the site remains open over the green roof of Hewlett's Reservoir which is evident in views from the escarpment to the east. The applicant contends that the site is now an isolated parcel of land due to the Oakley Grange development. Similarly, the applicant suggests that the proposed development would consolidate the Oakley Grange site. Ryder considers that this consolidation should be read as enlargement, or compounding adverse landscape and visual effects and reducing remaining open green space from a wedge to a finger.
- 6.44** The Ryder Appraisal comments on the mitigation and enhancement measures of the proposed development and the over reliance on the proposed mitigation of the east/west tree belt and remnant pasture slopes being able to mitigate all visual landscape and visual effects. Inherent mitigation (the remnant pasture slopes) would leave only a narrow finger of green, open space. Neither would retention of some pasture create a rural landscape, as suggested. The remaining open land would be too small a scale and would accommodate the access and winding estate road into the development with associated lighting and highway infrastructure. Ryder also considers that the proposed enhancements are not all landscape or visual but are targeted at recreation and access. This area could resemble an urban parkland rather than the current intrinsic landscape qualities and character of the lower slopes of the escarpment. Generally, the ES fails to recognise the changed context to landscape elements such as trees and hedgerows, arising from the urbanising effects of constructing 250 houses. The adverse impacts on some views of the site are also considered to be underestimated, particularly the view from Priors Road/Sainsbury's.
- 6.45** It is acknowledged that concentrating built form on the lower parts of the site would potentially result in less harm to the landscape character of the AONB. However, this needs to be balanced against the harmful and damaging effects of the proposed main access into the site from Harp Hill and the mitigation proposals which would change the character of this site from rural to suburban. Ryder comments specifically on the importance of reading the landscape character of the site as a whole; the site appearing as an identifiable landscape unit and not sub-divided into lower and upper parts.
- 6.46** Ryder has provided further comment on the observations made by the applicant's landscape consultant (MHP) on the Council's Landscape Appraisal. An initial response is also provided with regards the submitted photomontage images which are intended to represent the landscape and visual effects of the proposed housing development. These responses will not be reproduced or discussed in detail here. However, in summary, there is disagreement over the change in character and natural qualities of the site as a whole and of the upper and lower parts of the site. There is also disagreement over the impact on views and the long term effects on views arising from the proposed tree belt across the site. Winter views are not included within the photomontage set and there is some concern about the illustrated tree growth in some views, alongside the lack of any street lighting, furniture, signage or vehicles within the photomontages. Of note is the level of visibility of proposed houses at Year 1 and to only a small part of the AONB scarp beyond; a view which would be lost at year 10 following established tree growth within the site.
- 6.47** In addition to the above comments and photomontage viewpoints, it is also apparent that the application site is clearly visible (in almost its entirety) from public footpath 118, accessed via the B4632 Winchcombe Road below Queens Wood, Southam. The visual impact of the proposals from this vantage point is considered to be significant. The proposed dwellings rising up the site, combined with the proposed tree belt across the full width of the site, would mean that the proposed retained section of upper slopes and the backdrop of the lower scarp landscape further south would be largely lost from public view along this footpath link. From this viewpoint, the proposals would read as a continuation of built development from the north and west. The existing green wedge and the more or

less, seamless visual connection to the lower slopes of the escarpment would be lost from public view.

**6.48** The Cotswold Conservation Board also include photographs of a number of other public viewpoints from which the site (and proposed development) is clearly visible.

**6.49** Cotswold Conservation Board

**6.50** The Cotswolds Conservation Board (CCB) and CPRE both raise objections to the proposed development. Their comments and concerns are set out in full in section 4 of the report.

**6.51** CCB reiterate much of the policy context and 'exceptional needs' test implications outlined in paragraph 6.17 above and largely mirror the conclusions reached by the Ryder reports and Conservation Officer. As such, CCB's representations should be read in conjunction with the Ryder Appraisal and relevant officer comments.

**6.52** CCB comment that the site *is unimpaired by its proximity to urban development and is commensurate with the landscape quality in other parts of the Cotswolds AONB. The site is highly visible and a prominent feature when seen from nationally, regionally and locally important viewpoints, in particular the Cotswold Way National Trail. It provides an important 'green wedge' that extends the natural beauty of the Cotswolds AONB landscape into the urban area of Cheltenham..... Consideration of 'public interest' should take into account the fact that AONBs are areas whose distinctive character and natural beauty are so outstanding that it is in the nation's interest to safeguard them'.*

**6.53** Whilst acknowledging that there is built development immediately to the north, west and south of the site, CCB point out that there was built development in these locations prior to the AONB boundary review in 1990 and before designation of the AONB. The footprint of surrounding development has not increased since designation; the former GCHQ site arguably more incongruous than the subsequent Oakley Grange development. CCB also considers that the development is likely to have significant adverse impacts on the tranquillity of the Cotswolds AONB, particularly with regards to the number of vehicle movements within and adjacent to the AONB. Similarly, whilst the proposals may enhance biodiversity within the AONB, CCB considers that these measures could undermine the existing landscape character of the site.

**6.54** In summary CCB considers that the proposed development would:-

- fail to maintain the open, dramatic and sparsely settled character of the escarpment;
- intrude negatively into the landscape and could not be successfully mitigated;
- fail to conserve the pattern of settlement fringing the lower slopes of the escarpment; and the settlement's existing relationship to the landform; and
- adversely affect settlement character and form.

**6.55** CCB also discusses the visual impacts of the development from various key view points and considers the proposed mitigation. Matters relating to housing need (ref Policy CE12 of the Cotswold Area Management Plan) within the AONB are also addressed.

**6.56** In light of the above (and full representation), CCB considers that the proposals conflict with the Cotswold AONB Landscape Strategy and Guidelines and Cotswold AONB Management Plan 2018-23.

**6.57** CPRE Gloucestershire

**6.58** The CPRE raise very similar concerns to those of CCB and in addition provides detailed comments on transport, access and social cohesion related matters and CCB's latest

housing land supply status; referring to the fall in anticipated yield from strategic sites within the review period and the extent to which weight should be attached to housing land supply in decision making. These issues are discussed broadly within the corresponding sections of this report.

#### **6.59 Natural England**

**6.60** Natural England (NE) objects to the proposed development and their representations are set out in full in section 4 of this report. Their concerns are focused on the significant landscape and visual impacts of the proposed development on the AONB and the application site not being allocated within the Cheltenham Plan.

**6.61** NE also provides additional advice on European designated sites i.e. the Cotswolds Beechwoods Special Area of Conservation (SAC). Both HE and the Council's ecology advisor have reviewed the applicant shadow Habitats Regulations Assessment (HRA). Natural England raises no objection to the HRA subject to appropriate mitigation being secured in the form of Homeowner Information Packs; providing information on recreation opportunities and sensitivities of local and designated sites, including nearby SSSIs.

#### **6.62 Conclusion**

**6.63** The submitted details include inconsistencies in the applicant's views and conclusions on the impact of the proposals on the AONB. The ES acknowledges harm (and required mitigation) to the AONB whilst the Planning Statement refers to the positive benefits that would be derived from the proposal in terms of enhancement to the AONB; by relieving pressures for residential development elsewhere in the AONB and providing opportunities for this agricultural land to be managed in a way more representative of the lower escarpment.

**6.64** However, in light of the Council's landscape impact review and assessment, officers conclude that the landscape and visual effects of the proposed development would be at the least Moderate/Adverse and Permanent. Proposed mitigation, which largely comprises of the retention of a section of the southern pasture slopes, retention of TPO'd trees and some hedgerow, proposed hedgerow planting and a tree belt are not considered sufficient to mitigate the identified harmful visual and landscape effects of the proposed development; the proposed mitigation measures considered to alter the character of the site as a whole and result in harm to the AONB in themselves.

#### **6.65 Ecology/Biodiversity**

**6.66** Section 7 of the ES covers the ecological implications of the proposed development and includes a Preliminary Ecological Appraisal and Habitats Regulations Assessment (HRA) (for the Cotswold Beechwoods Special Area of Conservation (SAC)), as requested by Natural England and in accordance with the Conservation of Species and Habitats Regulations 2017. The applicant's shadow HRA considers the recreational pressures on the SAC arising from the proposed development. The applicant's ecological appraisals include a number of surveys, including bat roost inspections, hedgerow surveys, reptile and breeding birds surveys.

**6.67** The ecological appraisals and section 7 of the ES should also be read in conjunction with the submitted illustrative masterplan, landscaping strategy and Arboricultural Impact Assessment.

**6.68** The Council's Ecology advisor (CE) as reviewed these documents and provides the following summary and recommendations.

**6.69** No badger setts or reptiles were recorded on site. Bat activity was recorded across the site and one mature Oak tree functions as a summer day roost for a single bat. This tree

is shown as being retained within the indicative landscaping scheme. Other trees within the site that are identified as suitable for bat roosting are also shown as retained. Mitigation measures for all protected species identified on the site should be detailed in a Construction Ecology Management Plan (CEMP) which should include a lighting plan.

- 6.70** The development would result in the loss of some mature hedgerow and semi-improved grassland. Although veteran trees would be retained, care needs to be taken to ensure that both veteran trees and their root protection areas are protected during construction and landscaping. The planting of native trees and shrubs is welcomed but details of implementation and management would need to be considered and included in a 10 year Landscape and Ecology Management Plan (LEMP). This plan should also include enhancement measures for wildlife, e.g. bird/bat boxes, hedgehog shelters.
- 6.71** The shadow HRA concludes that, given the distance between the application site and Beechwoods and the number of other recreational opportunities available closer to the site, there should not be any significant effects on the Beechwoods SAC, either alone or in combination with other planned development. However, the applicant is willing to provide Homeowner Information Packs (HIP) for all occupiers. The HIP should inform residents of local green space options, in addition to highlighting the sensitivities of nature conservation sites including Beechwoods. The Council's ecologist considers that the proposed development would not likely affect the integrity of the Beechwoods SAC, either alone or in combination with other development and thus meets the test of the Habitats Regulation 2017.
- 6.72** Notwithstanding the above requests for additional information, the CE concludes that the proposed development will need to show a Biodiversity Net Gain (BNG), details of which will need to be submitted to the LPA prior to determining this application.
- 6.73** In response to the CE's requests for additional information, the applicant has submitted a CEMP, LEMP and briefing note on Biodiversity Net Gain.
- 6.74** Using appropriate (DEFRA) methodology, the applicant has demonstrated that the proposed development can deliver a positive BNG. This is based on the submitted illustrative masterplan for the site (ref 333.P3.9 REV E). This equates to an increase in habitats and hedgerow resulting from the provision of new wildflower grassland, SUDS features, enhanced hedgerows and new landscape planting. Additional enhancements would also be provided, that are not accounted for in the calculations e.g. bat and bird boxes and log piles.
- 6.75** The Council's Ecologist has reviewed the CEMP and LEMP plus the submitted lighting plan. The CEMP and LEMP together are considered to give sufficient level of detail as to how the ecological features on site would be protected and specify the ecological enhancement opportunities, as shown on the indicative landscape plans. However, no reference is made to hedgehog tunnels built into base of fences. This would need to be added to the CEMP/LEMP to ensure connectivity for hedgehogs across the site.
- 6.76** No objection is raised subject to the development being carried out in accordance with the guidance/recommendations set out in the above documents and as shown on the indicative landscaping/lighting plans. These matters could be dealt with via planning conditions.
- 6.77** Gloucestershire Wildlife Trust also conclude that it is unlikely the development would have a significant impact on designated biodiversity sites, priority habitats, threatened species or ecological networks. However, due to the size of the development the Trust recommends that opportunities for ecological enhancement through the provision of high quality Green Infrastructure should be included in any future scheme.

#### **6.78 Trees**

- 6.79** The application site contains a number of TPO'd trees which include the majority of the veteran and mature Oak trees within the site. There are also other trees and mature hedgerow within the site, which form parts of the field parcel boundaries.
- 6.80** The Council's Trees Officer (TO) has reviewed the application and his response is set out in full in section 4 of the report.
- 6.81** Given the presence of Ash trees across the site the overall tree population and canopy spread is likely to be reduced in the long term, which could affect the character of the site. This will need to be considered in any future planting scheme. The TO also suggests that the southern slopes could be more heavily planted with trees due to their steep gradient and being less suitable for traditional recreational/play activity.
- 6.82** The TO acknowledges that the proposals do not involve the removal of TPO'd trees within the site; the trees appearing to present a significant design and layout constraint. However, the proposals do involve substantial tree removal across the site and as such a tree removal and retention schedule and map plus Arboricultural Implications Assessment were requested prior to determination of this application. This would enable a more accurate assessment of the overall net gain of trees and shrubs (in terms of canopy cover and not tree/numbers removed versus planted).
- 6.83** It was also noted that, whilst the areas proposed for open space and natural play provision is welcomed, many of the retained trees in the more densely wooded areas are over-mature and/or are Ash. As such their long term future is limited and are not considered suitable for natural play provision. Some of the protected TPO'd trees are also proposed to be built around. Whilst built development may fall outside of Root Protection Areas, they could become a visual focus for adjacent dwellings and there is concern that the areas beneath the canopies could become play areas, resulting in requests for inappropriate heavy pruning. This can be difficult to resist, especially if there are repeat requests for pruning works. Similarly, the enforcement/policing of casual vandalism/damage resulting from play would be difficult.
- 6.84** The clay subsoil on this site has also been raised as a concern, in relation to tree roots and proximity to dwellings. This could also result in requests for future tree removal. A clay soil would also necessitate a carefully chosen palette of tree/hedge species for future planting. Appropriate foundations design would need to take account of this shrinkable clay soil so as to prevent the likelihood of subsidence and resultant requests for tree removal or heavy pruning.
- 6.85** In response to the concerns raised, a Tree Removal and Retention Plan and Arboricultural Implications Assessment were subsequently submitted and reviewed by the TO.
- 6.86** The TO accepts that whilst inappropriate pruning can be controlled through the TPO process, requests for pruning could be reduced by fencing and barrier planting using thorny species such as hawthorn, dog rose, bramble, holly etc.; the detail of which should be included in short, medium and long terms management plans for the trees and the open spaces. Similarly, detailed pruning, foundation design and planting species can be considered at reserved matters stage.
- 6.87** The Woodland Trust also raised some concerns about the potential for damage or loss of veteran trees within the site and the location of these trees not being marked clearly on any submitted plans. The applicant's Arboricultural advisor has identified eight trees as veteran specimens and a further three trees that are likely to become veterans in the future. The Trust are concerned that there are no plans to indicate that the development will ensure the retention of these veteran trees or provide veteran tree buffers as required by Natural England's standing advice and having regard to paragraph 175 of the NPPF,

which seeks to prevent the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees.

**6.88** The revised Arboricultural Assessment addresses the Trust's concerns; the Council's Tree Officer confirming that all veteran trees within the site would be retained. The extent and suitability of any proposed tree buffers would be a consideration at reserved matters stage.

### **6.89 Heritage, Conservation and Archaeology**

**6.90** Cultural heritage matters are discussed in Section 8 of the ES which provides an assessment of both archaeological and built heritage features within the site and a 1km study area surrounding the site.

### **6.91 Built Heritage Assets**

**6.92** The application site lies adjacent to the grade II listed Hewlett's Reservoir; the walls and embankment of the reservoir forming part of the south east site boundary. There are a number of heritage assets located within the reservoir complex including two underground reservoirs, an ornamental octagonal pavilion, Cotswold stone gate piers, cast iron gates and brick boundary walls and all are grade II listed. The adjoining Stone Lodge which faces onto Harp Hill is also listed due to its association with Hewlett's reservoir. The reservoir complex is described in the list description as forming a good group of buildings with group value.

**6.93** Other notable heritage assets are located nearby but are not considered to be significantly affected by the proposals and these include (Scheduled Monument) Hewlett's Camp to the south, the grade II listed Bouncer's lane Cemetery Park and Garden and Cemetery Chapels. There would be very limited change to the setting of Battledown Camp, which is already compromised by surrounding built form.

**6.94** The non-designated historic agricultural buildings within the site are in a poor state of repair and are considered of low value. Their loss is considered to be acceptable.

**6.95** The applicant acknowledges that the site forms part of the open landscape surrounding Hewlett's Reservoir and therefore forms a buffer between the reservoir and the rest of the built up area of this part of Cheltenham and provides a feeling of rurality which makes the assets stand out in their isolated setting. Whilst the applicant acknowledges that there would be some effect on built heritage assets, this would not result in any significant effects; their value deriving from their architectural, technological and historical value and their group value rather than their setting. The contribution made by the application site is secondary to the significance of the assets. However and somewhat conversely, the applicant accepts that, post development, the setting of the listed buildings would be permanently altered through the erosion of their rural setting. Without mitigation, there would be an adverse effect on setting through the introduction of built form and associated noise and light pollution. The applicant acknowledges further that by bringing built development closer to the Reservoir complex this would remove some of the remote experience of the asset and to some degree reduce its visual impact within an open rural context.

**6.96** Proposed mitigation for the above identified adverse effects is in the form of the retained (buffer) area of southern pasture slopes.

**6.97** The applicant also considers that there would be no further cumulative adverse effects on heritage assets from other recent, completed and planned development. However, it would seem that the applicant has not considered fully the cumulative effects of the proposed development on heritage assets; other than acknowledge that the proposed

development would further erode some of the rural setting which surrounds the assets but would not increase the significance of effect on the assets.

- 6.98** The Conservation Officer has commented on the proposals and his response is set out in full in section 4 of the report. In this case, the CO has considered the impact of the proposals on the setting of the heritage assets within Hewlett's Reservoir. The CO notes that the immediate setting of the Reservoir is rural, defined by tree and hedgerow lined fields, with wider views of the suburbs of Cheltenham to the west and open countryside to the east; this setting only somewhat compromised by modern housing development abutting the northern boundary. The CO considers that despite this modern housing development, Hewlett's Reservoir retains much of its rural setting and exhibits a verdant and open character.
- 6.99** The CO considers that the proposed development would have a harmful impact on the setting of the designated heritage assets within Hewlett's Reservoir. The proposed housing would intrude into important views to the north west of Hewlett's Reservoir and as a result would adversely affect how the heritage assets are experienced within their rural context. Taking into account the adverse impacts of the existing housing development abutting the Reservoir's northern boundary, the proposals would have a cumulative adverse impact on the rural setting of Hewlett's Reservoir. The CO acknowledges the proposed tree belt would act as a visual screen and create a recreational area/meadow adjacent to Harp Hill, but this is considered an inadequate attempt to mitigate the impact of the proposed development on the setting of the heritage assets.
- 6.100** In light of the above, the CO concludes that the impact of the proposals on the setting of the heritage assets within Hewlett's Reservoir is unacceptable in heritage terms. The proposed development is considered not to sustain and enhance the designated heritage assets and are therefore contrary to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990, Chapter 16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy.
- 6.101** It is noted that Historic England (HE) considers that the proposal would result in an impact to the setting of the Scheduled Monument (Battledown Camp). However, HE considers the impact to be at the lower end of the scale referred to in paragraph 193 of the NPPF as 'less than substantial'. As such, the Council will need to determine if the potential adverse impacts of the application to designated heritage assets may be out-weighed by the potential public benefits, as referred to in paragraph 196 of the NPPF. The CO however, does not consider the Scheduled Monument to be affected significantly by the development proposal due to its distance from the site and intervening development. With this in mind, the public benefits of the proposals (housing provision) would likely outweigh any adverse impacts on the setting of the Scheduled Monument.
- 6.102** Importantly (albeit not within their remit), HE note the potential for the proposed development to have a more significant impact on the setting of the grade II listed reservoirs and associated features.
- 6.103** Irrespective of whether any potential harm amounts to substantial harm or less than substantial harm, paragraphs 193 and 194 of the NPPF require that great weight should be given to the assets' conservation and any harm to the significance of the assets (including from development within its setting), should require clear and convincing justification.
- 6.104** The proposed development is considered to cause less than substantial harm to the significance of the heritage assets. With reference to NPPF paragraph 196, officers consider that the public benefits arising from the proposals (i.e. housing provision), would not outweigh the harm caused to the significance of the heritage assets. Similarly, officers

consider that the applicant has not provided adequate justification for the harm caused to the significance of the designated assets.

### **6.105 Archaeology**

**6.106** The applicant has undertaken an Archaeological Desk Based Assessment (July 2019) plus Geo Physical Survey Report (May 2019) which did not identify any specific archaeological features other than ridge and furrow cultivation earthworks which are evident across the majority of the site.

**6.107** A more detailed Archaeological Evaluation report/survey in December 2019 recorded a limited number of archaeological features in the 26 trenches excavated that may be impacted upon by the proposed development (Appendix 8.4 of the ES). These features are considered by the applicant to be of low to negligible sensitivity and would be completely removed during the construction phase of the proposed development.

**6.108** An assessment has also been carried out in relation to Battledown Camp (Scheduled Monument).

**6.109** The applicant has discussed the scope of the archaeological assessment and significance of the archaeological assets identified with the County Council Archaeologist who has also carried out a subsequent review of the relevant information presented in the ES.

**6.110** The Archaeological Evaluation concludes that the site produced a single dated archaeological feature; a small gully that contained a small amount of later prehistoric pottery. A few other widely separated and undated features were recorded. The report concludes that the lack of density of features indicates outlying activity away from any settlement foci.

**6.111** In light of the above the County Archaeologist considers there to be low risk that significant archaeological remains would be affected by the proposed development. As such, no further archaeological mitigation or recording is required in connection with the proposals.

### **6.112 Access and Highway Issues**

**6.113** This application seeks approval for the means of access into the site to serve 250 houses, and is supported by a Transport Assessment, Travel Plan, Preliminary Access Arrangements Plan and an Access and Movement Parameter Plan which identifies the highway corridor flexibility zone, proposed pedestrian and cycle way links, existing public rights of way and emergency access points.

**6.114** Gloucestershire County Council, acting as Highway Authority has undertaken a full assessment of the proposals, having reviewed section 9 of the ES, Transport Assessment (Appendix 9.1), Travel Plan, the TA addendum and Technical Note. ES section 9 is informed by the technical elements of the TA and considers the environmental effects of the proposed development (during both construction and operational phases), the cumulative and in-combination (air quality and noise) effects and any mitigation measures as necessary.

**6.115** The ES concludes that with the implementation of the proposed mitigation and enhancement measures, including the implementation of the residential Travel Plan, the additional traffic demand would be safely and satisfactorily accommodated on the local transport network. The applicant considers that the overall residual effect, in transport terms would be *Minor to Moderate Beneficial*.

**6.116** The mitigation and enhancement measures identified include implementation of the Residential Travel Plan and mitigation by design proposals i.e. the new site access

junction would be designed in accordance with the Design Manual for Roads and Bridges, Manual for Streets and local authority design guidance to ensure that the access is safe and suitable. In addition an emergency access via the existing farm track is proposed and the internal road layout would be designed to facilitate walking and cycling links to existing routes. A pedestrian and cycle link is also proposed between the application site and the B407 Priors Road along the existing farm track.

- 6.117** Financial contributions would be made towards improving bus services, improvements to the B4075 Priors Road/Hales Road/Harp Hill/Hewlett Road double roundabout, the provision of a new section of footway on the north side of Harp Hill (linking Footpath 86 to the existing footway on Harp Hill) and an uncontrolled pedestrian crossing facility on Harp Hill, a controlled Toucan crossing on Priors Road and a section of shared footway/cycleway on the west side of Priors Road to link with existing cycle routes. Mitigation during the construction phases would be dealt with by way of controls imposed by planning conditions.
- 6.118** The Highway Authority has raised a number of significant concerns in relation to the proposed access arrangements, TA findings and subsequent TA addendums. His responses are set out in full in section 4 of the report.
- 6.119** In summary, insufficient detail (tracking and dimensions) was first submitted for the proposed bellmouth main access into the site. The gradient of the access road was considered unacceptable; the indicative site sections revealing significant challenges and contrary to Manual for Gloucestershire Streets which requires that 1 in 12 gradients should not exceed 30m in length.
- 6.120** In accordance with the Scoping Opinion, the TA assesses several junctions, in particular the junction of Harp Hill/Priors Road/Hewlett Road. The Highways Officer does not agree with the mitigation scheme for this junction, the modelling forecasts nor the form the scheme's delivery. As such, the proposed development would result in significant capacity erosion at this junction. The modelling results also showed unmitigated harm at other junctions, including Priors lane/Bouncers Lane and A40/London Road. The Highway Authority has also recommended that an assessment year of 2031 (to coincide with the local plan period) and an alternative modelling tool is used. In addition, the submitted Travel Plan is considered to lack ambition and requires revision.
- 6.121** The submitted TA Addendum (TAA) did not address the above issues. The TA Addendum continues to include a 2024 assessment year which would not adequately account for future growth and therefore would underestimate the impact on the highway network. The proposals continue to show shared use facilities (pedestrian/cycle) as the primary way in and out of the site, on connections within the site and in the surrounding highway network. Relevant guidance advises that the use of shared facilities should be a last resort design solution.
- 6.122** Notwithstanding the revised tracking details, the design of the access road continues to show large radii, excessive road widths and unacceptable gradient; the access not conforming to Manual for Gloucestershire Streets. Further modelling demonstrates that the proposed development would result in increased queue lengths at the junction of Priors Road/Harp Hill/Hales Road/Hewlett Road. The modelling also does not take account the 2031 plan period and the applicant has failed to carry out their own junction analysis or microsimulation of the impacts.
- 6.123** The Highway Authority also considers that more consideration is needed with regards bus service provision and improving existing services with subsequent infrastructure improvements at the Sainsbury's bus stops.
- 6.124** The more recent submitted Technical Note (TN) does not address the previous concerns outlined above. Despite some further information on microsimulation modelling, the

Highways Authority concludes again that the impact on the Priors Road/Harp Hill/Hales Road/Hewlett Road junction would be unacceptable and severe. The modelling shows increased delay and queue length in the 2024 scenario and direct mitigation is not proposed. Similarly, the assessment of traffic delay at the Priors Road/Bouncers Lane and Prestbury Road/Tatchley Lane/Deep Street/Blacksmith Lane/Bouncers Lane junction is inadequate. In addition, the TN does not adequately address the identified significant impact at the A40 London Road/Old Bath Road/Hales Road. Shared pedestrian/cycle facilities are still proposed and details of the design of off-site mitigation proposals are lacking.

**6.125**The proposed access off Harp Hill has not been designed in accordance with Manual for Gloucestershire Streets. The access is excessive and has not been designed to provide safe and suitable travel infrastructure. The Highway Authority has no confidence that the desired 1 in 20 gradient can be achieved; the applicant proposing long lengths of 1 in 12.5. The site topography continues to present significant challenges and, on the basis of the information submitted, the Highway Authority does not consider that a future proposal (including reserved matters) would be able to achieve a suitable layout.

**6.126**The distance to bus stops remains unacceptable, the indicative routes to bus stops are unsuitable and existing bus stops require enhancement.

**6.127**In summary, the Highway Authority concludes that the TA, TA Addendum and Technical Note have not addressed the cumulative impact of development and future traffic growth for an appropriate future year. The impacts of the proposed development on the highway network are considered to be severe and would fail to provide a safe and suitable access for all users. The proposals therefore conflict with paragraphs 108, 109 and 110 of the NPPF, policies INF1 and INF4 of the JCS, LTP PD 0.3 and 0.4 of the Local Transport Plan and Manual for Gloucestershire Streets. The Highway Authority recommend that the application is refused on highways grounds.

#### **6.128 Drainage and Flood Risk**

**6.129**Matters relating to hydrology, drainage and flood risk are set out in Section 12 of the ES. Surface water and ground water features of the site are discussed alongside proposed mitigation strategies for any potential effects during both construction and operational phases of the development and a review of any residual significant effects. The cumulative effects of existing, approved and proposed development within the area have also been considered. A Flood Risk Assessment (FRA) and Drainage Strategy for the management of surface water is included in ES Appendix 12.1.

**6.130**The application site lies wholly within Flood Zone 1 (low probability of fluvial flooding). Environment Agency mapping indicates that the north east section of the site is at risk of reservoir flooding (from Severn Trent Water Ltd Hewlett's Reservoir). Also according to EA mapping and the surface water management plan produced for the Priors Oakley Flood Alleviation Scheme led by the County Council, there is some risk of surface water flooding to the site during the 1 in 100 year rainfall event. There is no known historical reported surface water flooding of this site but properties downstream of the site and Wymans Brook have experienced flooding historically. The site could also be affected by overland flows onto the site from elevated land to the south east. An ordinary watercourse/ditches (not a main river) runs adjacent to the northern site boundary and there are two internal ditches and a surface water drain within the site.

**6.131**The FRA identifies that the major adverse risk arising from the proposed development is surface water run-off, both on-site and downstream. The construction phase could also give rise to temporary minor adverse effects on water quality.

**6.132**The FRA concludes that the development is safe from flooding and flood risk would not be increased downstream and that the overall flood risk in the area would be reduced. The use of SuDS as mitigation would manage and reduce flood risk and would ensure that there is no adverse effect on water quality. The FRA identifies a minor beneficial effect of the proposed development on flooding and surface water drainage.

**6.133**Subject to Severn Trent approval, foul sewerage could be accommodated and any effect on existing sewerage infrastructure would be negligible. The cumulative effects of the proposed development and existing development are considered to be negligible with a minor beneficial effect on hydrology, drainage and flood risk identified. Reservoir flooding is also extremely unlikely to occur; the northern reservoir has been infilled albeit the southernmost reservoir is still operational. In the unlikely event that the reservoir did flood, flood water would drain naturally towards the site and be collected by the existing internal land drainage ditches.

**6.134**The Environment Agency (EA), Severn Trent Water and the County Council acting as Local Lead Flood Authority have reviewed the submitted information; all three having provided detailed comments at the scoping opinion stage. At this stage, the applicant was advised that on site attenuation would be required for events with flow probabilities of up to and including the 1 in 100 year event (including an appropriate allowance for climate change), through the incorporation of sustainable drainage and hierarchy principles (SuDS), to balance surface water run-off to Greenfield run-off rates. An opportunity for off-site betterment in connection with Wyman's Brook flood alleviation scheme and the requirements of the Water Framework Directive (in this case maintaining the appropriate water quality status of the River Swilgate), were also noted.

**6.135**The EA are satisfied that the environmental issues identified in their response to the EIA Scoping Opinion have been addressed by the ES and supporting Flood Risk Assessment and Drainage Strategy. Given that the site is located within Flood Zone 1 (low probability of river flooding), no objection or further comment is raised.

**6.136**The LLFA raises no objection to the proposed development subject to the approval of any subsequent detailed drainage design which should adhere to the principles set out within the submitted drainage strategy. These matters could be dealt with by conditions, as suggested by the LLFA. The proposed drainage strategy would ensure that flood risk resulting from rainfall events would be managed on-site and that flood risk would not increase elsewhere; the strategy supported by calculations that are considered acceptable by the LLFA.

**6.137**Severn Trent raise no objection to the proposals subject to subsequent approval of a detailed scheme for the disposal of foul and surface water.

**6.138**In light of the above, there are no significant concerns or adverse effects arising from the proposed development that would increase fluvial flood risk, surface water flood risk on or off site or comprise water quality on or off-site. Furthermore, the FRA identifies a minor beneficial effect of the proposed development on flood risk and surface water drainage.

### **6.139 Design and layout/Impact on Neighbouring Property**

**6.140**Matters relating to design appearance and layout are 'reserved' for future consideration. However, the applicant has provided an illustrative masterplan and landscaping strategy to demonstrate how 250 dwellings could be accommodated on this site and to illustrate the general distribution/layout of built form and soft landscaping. Various Parameter drawings are also provided to illustrate the broad concepts of access and movement, general land use, building heights and green infrastructure. The Design and Access

Statement sets out the constraints that have informed the indicative masterplan layout and includes an analysis of the character of surrounding development.

- 6.141** Essentially, the application site is split into roughly one third/two thirds land parcels. The larger northern section would accommodate the 250 houses plus SuDS feature, associated estate roads and infrastructure. The smaller southern section would accommodate a 15 metre tree belt, retained pasture slopes/recreational space, footpaths and the main access into the site, plus associated infrastructure. The main estate road within the site is circular and provides access to a number of short cul-de-sacs.
- 6.142** A number of pedestrian links to surrounding development are also shown; albeit these are limited to access onto Footpath 86 along the west site boundary, use of the existing farm track and an access point onto Harp Hill in the south west corner of the site. There is no proposed connectivity to the Oakley Grange development.
- 6.143** The proposed dwellings seem to be fairly evenly distributed across the site; the layout and provision of open and landscaped areas largely dictated and constrained by retained trees and hedgerow and heritage assets at Hewlett's Reservoir.
- 6.144** There appears to be a predominate use of terraced and semi-detached housing within the middle section of the site, where density and building height increases, and where there is a noticeable shift in character and massing in comparison with the larger detached houses located towards the site perimeters. This approach appears to respond to the character and grain of surrounding development where there is a noticeable contrast between the larger detached houses of the south east section of Oakley Grange and Wessex Drive and the smaller detached houses/plots of the remainder of the adjoining Oakley Grange development to the north. Whilst this approach is considered broadly acceptable, the uniformity of building line, density, building heights and house types and resultant street hierarchy effecting parts of the site would need further consideration. This exercise may necessitate a reduction in dwelling/building numbers.
- 6.145** The indicative site layout shows one area allocated for formal play. There otherwise appears to be a reliance on incidental areas of open space located around individual trees and tree groups, in addition to the retained southern parcel of land. A development of this size would be expected to provide more on-site opportunities for formal play.
- 6.146** Separation distances to neighbouring properties in Wessex Drive and Oakley Grange appear, on the whole acceptable with the exception of the larger detached houses located adjacent to the east site boundary. The potential impact on neighbouring properties in terms of loss of light, privacy, outlook, shading and overbearing would need to be considered at a reserved matters stage. Site topography and light pollution may also contribute to any harmful impact on the amenities of adjoining land users.
- 6.147** The submitted site section drawings seek to demonstrate the extent of groundworks proposed and the impact of site topography on the suitability of this site to accommodate a significant number of dwellings on significantly sloping ground. The site sections are not entirely clear in terms of the extent of groundworks proposed. However, what is clear, is the potential visual impact of the proposed development; the rising gradient exacerbating the visual impact of built form. These effects would be particularly evident from Priors Road/Sainsbury's and other nearby vantage points.
- 6.148** Architects Panel and Civic Society
- 6.149** The Cheltenham Architects Panel has also provided a review of the proposals and considers that there is no justification to establish this site as a residential site. Whilst a notional site development layout has been submitted with the application, and some preliminary landscape design proposals, the Panel felt that a more detailed analysis is required, in particular site sections, to show the existing site context and the impact of the

development. The very steep new roads, their position and layout, together with the housing layout, could potentially have a harmful impact on the setting.

**6.150** The Civic Society (CS) objects to the proposals and considers the application to lack sufficient detail. The CS considers that the proposed development would not conserve nor enhance the AONB and would lead to adverse change to the landscape. The CS advocates increased public benefit of this area of the AONB in line with its very special conservation status. Other than visual amenity, the site could provide benefits for the community through access and management for biodiversity.

## **6.151 Affordable Housing and Developer Contributions/s106 Obligations**

### **6.152 Affordable Housing**

**6.153** Paragraph 59 of the NPPF states that when supporting the government's objective of boosting housing land supply, the needs of groups with specific housing requirements must be addressed. Within this context paragraph 61 goes on to state that the size, type and tenure of housing needed for different groups in the community should be reflected in strategic policies.

**6.154** Policy SD12 of the JCS (affordable housing) seeks the provision of 40% affordable housing in all new residential developments of 11 or more dwellings. Policy SD11 sets out that development should address the needs of the local area, including older people. This application is for 250 dwellings and therefore policy SD12 is triggered.

**6.155** The application proposes a policy compliant level of affordable housing (40%); included within the applicant's Draft Heads of Terms.

**6.156** The Council's Housing Enabling Officer has commented on the proposals and his comments are set out in full in section 4 of the report.

**6.157** To achieve a policy compliant scheme and in line with the latest Local Housing Needs Assessment (LHNA) the Council would seek a provision of 100 affordable homes for this development with a 70/30 tenure split between social rented and shared ownership/intermediate properties. Affordable housing provision would be secured via a s106 Agreement.

### **6.158 Developer Contributions**

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

**6.160** For a development of this nature, contributions towards education, libraries and play space provision would normally be sought. Education and libraries provision would be sought via developer financial contributions towards off an off-site provision and secured via a s106 Agreement.

**6.161** Gloucestershire County Council have commented on the proposed development and set out the infrastructure and services requirements for education and libraries provision arising from the development and the contributions required to make the development acceptable in planning terms, including the means of securing these contributions via a s106 agreement. Their summary response is set out in full in section 4 of the report.

- 6.162** The GCC requested developer contributions to fund pre-school, primary and secondary school places are based on up to date pupil yield data, current school capacity and local forecast data; which provide evidence of a lack of capacity in the relevant education sectors to accommodate the additional children arising from proposed qualifying dwellings needing a place at a local school.
- 6.163** GCC's Education Needs Assessment concludes that the schools closest to the application site have no capacity showing in the relevant forecast years, despite a number of the secondary schools having already been expanded to accommodate increasing numbers. When the cumulative yield from other planned development is applied it shows a shortfall of places. There would be no spare capacity to accommodate children arising from the development and a full primary and secondary education contribution would be required. Similarly, a full Pre-School contribution would be required to extend the early years offer and address any shortfalls in the Whaddon Primary Planning Area.
- 6.164** GCC advise that the contributions have been calculated based on specific DfE multipliers and formulas relative to the numbers of children generated by this development and taking account of any existing capacity. The contributions are required to make the development acceptable in planning terms and would mitigate the impacts of the proposed development.
- 6.165** GCC point out that there are no formal mechanisms or agreed financial arrangements currently in place between CBC (as CIL Charging Authority) and GCC to fund the required strategic (education and libraries) infrastructure from CIL. In addition, GCC consider that the level of CIL charged on a development is unlikely to cover the developer contributions.
- 6.166** The applicant has subsequently challenged GCC's request for education contributions for a number of reasons. Principally, the applicant considers the calculation methods (Pupil Product Ratio) used by GCC in their Educational Needs Assessment inaccurate and 'unadopted'. The applicant has therefore carried out an alternative education needs assessment in accordance with relevant guidance and with an indication of the need for additional school places to be funded through CIL. This assessment concludes that, at present there is surplus capacity in pre-school, primary and secondary schools/sixth forms across the school planning areas. The applicant also raises a number of matters regarding CIL and s106 agreements and the appropriate mechanism for securing funds.
- 6.167** To assist officers further, GCC has provided an additional statement which lists the various documents and publications which set out pupil place needs in mainstream, state funded schools in Gloucestershire. In summary, the base forecasts of pupil yield are based on housing that has already been completed, as reported annually to GCC by Borough/District Councils. Although taken into account when planning school places, the base forecasts do not include pupil yield from anticipated, granted or speculative development. Studies undertaken by GCC in 2018 and 2019 revealed pupil ratios to be greater than the national average; the up to date pupil ratios introduced in 2019 are now being used to calculate education contributions. The revised pupil yield figures have been referenced in the updated Developer Guide (LDG), adopted March 2021. The LDG states clearly that the pupil yield ratio is reviewed annually and can be adjusted from time to time based on new information.
- 6.168** GCC also note that Cheltenham's CIL Infrastructure Funding Statement (IF) indicates that no CIL has been spent on education, and as far as GCC is aware, no CIL is proposed to be allocated by CBC or the other JCS authorities towards education infrastructure. As such, GCC conclude that the education needs arising directly from the proposed development would not be funded by CIL and would therefore need to be secured by way of a s106 obligation (which is regulation 122 compliant).

**6.169** These matters of disagreement between applicant and GCC remain unresolved and cannot be addressed fully during the course of determining of this application. It is anticipated therefore, that discussions between the County Council, applicant and CBC officers will continue.

#### **6.170 Environmental Pollution and Site Contamination**

**6.171** The ES includes various reports covering air quality, noise and vibration effects, waste minimisation, ground conditions and contamination risk. The submission also includes an Agricultural Land Classification survey; the agricultural land quality at this site identified as mostly 3b (moderate quality) with isolated areas of 3a (good quality).

**6.172** The Council's Environmental Health team has reviewed all documentation and considers the information submitted acceptable with no grounds for objecting to the proposals at this outline stage, subject to conditions relating to construction management, external lighting and asbestos removal/mitigation.

#### **6.173 Air quality (ES section 10)**

**6.174** Having considered both the site specific effects and the cumulative and in-combination effects of sites within 500m of the application site, the most likely impacts on air quality (without mitigation) are likely to arise from dust emission during construction. The effects of additional road traffic on air quality were also not found to be significant and no specific mitigation is required. A number of recommendations for mitigation are suggested within the ES which include a Dust Management Plan, the setting back of properties from roads by 70m and provision of a Travel Information Pack for new residents in addition to the proposed cycle and pedestrian access to the proposed development.

**6.175** The specific measures to minimise dust impacts are set out in Appendix 10.5 of the ES.

#### **6.176 Noise and vibration (ES section 11)**

**6.177** The applicant has carried out a noise assessment for the proposed development which has considered the potential effects during construction and operational stages on existing noise sensitive receptors and future occupiers. Potential cumulative and in-combination effects have also been considered.

**6.178** The construction phase of the development is likely to result in short term adverse effects upon existing residents in close proximity to the site. Appropriate mitigation and control measures for noise and vibration during construction works could be secured via suitably worded conditions (Construction Environmental Management Plan CEMP).

**6.179** The noise assessment also concludes that the additional road traffic would result in no significant adverse effects. Traffic flows on roads directly adjacent to the site are anticipated to increase by more than 10% and would result in increases in noise levels up to 1.3 dB(A). These calculations also take account of the cumulative effects of the proposed development. Traffic flows on surrounding road links are anticipated increase by less than 10% which would result in a change in noise levels of less than 1dB(A). The noise survey findings conclude that the increase in noise levels would not be perceptible under normal listening conditions and would result in a negligible adverse noise impact. The details of the noise survey calculations are set out in Appendix 11.1 of the ES.

#### **6.180 Site Contamination (ES section 13)**

**6.181** The detailed site contamination risk assessment indicates a single potential risk to health (asbestos) and further investigation, site remediation/mitigation prior to construction would be required. It is noted that there was no significant risk to controlled waters identified and

there are not considered to be any cumulative effects upon any receptors arising from both off-site development and the proposed development.

#### **6.182** Renewable Energy and Sustainability

**6.183** Paragraphs 148 and 150 of the NPPF require the planning system to ‘...*support renewable and low carbon energy and associated infrastructure*’. New development should ‘*avoid increased vulnerability to the range of impacts arising from climate change*’ and in areas which are vulnerable risks should be managed ‘*through suitable adaptation measures, including through the planning of green infrastructure*’. Similarly, greenhouse gas emissions can be reduced through the location, design and orientation of new development.

**6.184** Policy SD3 of the JCS sets out the requirements for achieving sustainable design and construction. Development proposals should aim to increase energy efficiency, minimise waste and avoid environmental pollution and in doing so will be expected to achieve national standards and be adaptable to climate change in relation to design, layout, siting, orientation and associated external spaces. An Energy Statement must be submitted for all major planning applications which should indicate the methods used to calculate predicted annual energy demand and associated carbon emissions.

**6.185** In accordance with NPPF guidance and SD3, the applicant has provided a Renewable Energy and Sustainability statement, which acknowledges the above policy approach set out at local and national level in terms of the design and construction methodology of new builds needing to achieve inherent adaptation specification and energy efficiency. In so doing, the applicant acknowledges and has considered the various requirements and considerations of Policy SD3 which include achieving standards of construction above the minimum standards set by building regulations, optimising building fabric, construction techniques, natural lighting and solar gain, measures to reduce the impact of climate change, including flood mitigation, heat proofing, open space provision, shading, water retention and landscaping.

**6.186** The application is an outline proposal and therefore the applicant points out that annual emission rates cannot be estimated fully. However, the applicant confirms that the design strategy would follow the methodology for calculating the predicted annual energy demand and associated carbon emissions as required by current building regulations (Part L). The illustrative master plan indicates areas of open space, landscaping and water retention. At a later stage in the planning application process, the Council would consider the extent to which all criteria and standards set out above have been incorporated into the layout, design, fabric and construction methodologies of the proposed development.

## **7. CONCLUSION AND RECOMMENDATION/PLANNING BALANCE**

**7.1** 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.

**7.2** NPPF paragraph 11 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*’. This is referred to as the ‘tilted balance’ and the government’s approach to ensuring delivery of housing nationally.

- 7.3** The application site lies outside of the Principal Urban Area of Cheltenham (PUA). Policy SD10 of the JCS states that in Cheltenham on sites that are not allocated, housing development will be permitted on previously-developed land within the Principal Urban Area. Housing development on other sites will only be permitted where it is infilling within the PUA or affordable housing on a rural exception site or there are other specific exceptions/circumstances defined in district or neighbourhood plans. The proposed development therefore conflicts with SD10.
- 7.4** Cheltenham Borough Council is currently unable to demonstrate a five-year supply of housing land. As such, by virtue of paragraph 11(d) footnote 7, the policies of the development plan that are most important to determining the application are out-of-date and the paragraph 11d) and the 'tilted balance' exercise is engaged. The shortfall position in housing land supply and the contribution of 250 houses in alleviating that shortfall is a material consideration.
- 7.5** However, the application site lies wholly within the Cotswold AONB and the grade II listed structures of Hewlett's Reservoir are located immediately adjacent to the east site boundary. The site's designated status and adjacent listed structures means that NPPF paragraph 11d) (i) and (ii) apply; *planning permission should be granted unless policies in the NPPF that protect areas or assets of particular importance provide 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 of the Framework.*
- 7.6** Whilst it is acknowledged that the proposal would have the effect of increasing the supply of housing land in Cheltenham, government guidance indicates clearly that this needs to be weighed against other considerations/adverse effects which in this case relate principally to the impacts of the proposed development on the AONB, heritage assets and the highway network.
- 7.7** Paragraph 172 of the NPPF emphasises the great weight that should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The scale and development within an AONB should be limited and planning permission refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.
- 7.8** The proposed development is considered to be major development within the AONB. The 'exceptional circumstances' put forward by the applicant are the provision of housing (including affordable housing) and its contribution to the Council's housing land supply and local housing needs. From the applicant's perspective, the need for the development in terms of any national considerations and impact on the local economy, appear to be justified on this basis.
- 7.9** Officers consider that there are no 'exceptional circumstances' associated with this case and the thresholds and tests of paragraph 172 are not met. Housing provision and the contribution of 250 dwellings towards meeting housing land supply requirements is significant but cannot on its own be an exceptional circumstance. The shortfall in housing land supply could be addressed via the development of other sites within the JCS area, including allocated sites for housing. Furthermore, NPPG guidance states that AONBs *'are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas'*. Fundamentally, a shortfall in housing land supply does not mean that there should be a presumption in favour of granting planning permission for residential development within the AONB.

- 7.10** Any adverse impact on the AONB as a result of the proposal, which cannot be adequately mitigated, should weigh greatly in the proposal's assessment. Officers consider the visual and landscape impacts of the proposed development on the AONB as a whole to be significant (Moderate/Major, Adverse and Permanent). Proposed mitigation, which largely comprises of the retention of a section of the southern pasture slopes, retention of TPO'd trees and some hedgerow and a proposed tree belt, is not considered sufficient to mitigate the identified harmful visual and landscape effects of the proposed development; the proposed mitigation measures considered to alter the character of the site as a whole and result in harm to the AONB in themselves.
- 7.11** It is also considered that the impacts of the proposal on the setting of the heritage assets within Hewlett's Reservoir would be unacceptable in heritage terms. The proposed development would neither sustain nor enhance the designated heritage assets and are therefore contrary to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990, section 16 of the National Planning Policy Framework and Policy SD8 of the Joint Core Strategy.
- 7.12** There have also been significant concerns raised by the Highway Authority regarding the proposed access arrangements and impacts on the highway network. The application details have also not addressed the cumulative impact of development and future traffic growth for an appropriate future year. The impacts of the proposed development on the highway network, and in particular nearby road junction capacities, are considered to be severe and fail to provide a safe and suitable access for all users. The proposals conflict therefore with paragraphs 108, 109 and 110 of the NPPF, policies INF1 and INF4 of the JCS, LTP PD 0.3 and 0.4 of the Local Transport Plan and Manual for Gloucestershire Streets.
- 7.13** Any public benefits arising from the proposed development are also a material consideration and have been considered as follows:-
- A contribution to the supply of housing (250 units) including affordable housing provision– which would contribute to the Council's current shortfall in housing land supply and local housing needs
  - The economic benefits of employment gain within the construction and utilities industries – albeit only moderate weight can be afforded given the temporary nature of the construction phase of the development.
  - New footpath links and new publicly accessible land
- 7.14** Whilst it is also acknowledged that there is potential for a net biodiversity gain arising from the proposed development, this needs to be weighed against the overall harmful effects of the landscape mitigation proposals on the character of this site.
- 7.15** There are no other material considerations and/or public benefits that would weigh in favour and/or outweigh the adverse effects of the proposed development.
- 7.16** Having regard to paragraph 11(d)(i) of the NPPF and having applied the policies in the NPPF that protect areas or assets of particular importance, there is a clear reason for refusing the development. The 'tilted balance' is not therefore engaged. In this case, and for the purposes of paragraph 11d, it is also not necessary to consider whether any other adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. However, even if paragraph 11(d)(i) was considered not to apply in this instance, it has been demonstrated that the adverse impacts of granting planning permission would significantly outweigh the benefits, in accordance with paragraph 11(d)(ii).

- 7.17 For the reasons set out above, the officer recommendation to the Committee is that the Secretary of State be advised that the Council would be minded to refuse the appeal proposal for the following reasons.

## 8. REFUSAL REASONS

- 1 The application proposes the erection of 250 houses on greenfield/agricultural land within the Cotswold Area of Outstanding Natural Beauty (AONB) and on land outside of the Principal Urban Area of Cheltenham (PUA).

Policy SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) stipulates that on sites that are not allocated for residential development, new housing development within the Cheltenham Borough administrative area will normally only be permitted on previously developed land within the PUA except where otherwise restricted by policies within District Plans. The proposed development does not satisfy any of the exception criteria of SD10 that would support housing development on this site.

The proposed development conflicts therefore with Policies SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017) in that the proposed development does not meet the strategy for the distribution of new development within Cheltenham Borough and the application site is not an appropriate location for new residential development.

- 2 The proposals constitute major development within the Cotswold Area of Outstanding Natural Beauty (AONB). In accordance with national planning policy, the AONB is afforded the highest status of protection in relation to conserving and enhancing landscape and scenic beauty and in which major development is prohibited unless in exceptional circumstances and when in the public interest.

The proposed construction of 250 houses would, by virtue of the location and size of the application site, the scale and extent of development and the numbers of dwellings proposed plus associated infrastructure would fail to conserve or enhance the landscape and scenic beauty of the AONB and would result in significant harm to and permanent loss of the landscape quality and beauty of this part of the AONB. The proposed indicative mitigation measures intended to minimise harm to the AONB are considered inadequate, do not address the concerns and would alter the character of the site as a whole and result in harm to the AONB in themselves.

The applicant has failed to demonstrate any exceptional circumstances (or public interest) that would justify the proposed development within the AONB and thereby outweigh the identified harm to the AONB.

The proposed development is therefore contrary to Policies L1 and D1 of the Cheltenham Plan (2020), Policies SD4, SD6 and SD7 of the Joint Core Strategy (2017), Policies CE1, CE3, CE10 and CE12 of the Cotswold AONB Management Plan 2018-23 and paragraphs 170 and 172 of the NPPF.

- 3 The proposed development would, by virtue of design, layout and traffic generation result in a severe impact on the highway network and would fail to provide a safe and suitable access for all users, contrary to paragraphs 108, 109 and 110 of the National Planning Policy Framework, Policies INF1 and INF6 of the Joint Core Strategy (adopted December 2017), Policies LTP PD 0.3 and 0.4 of the Local Transport Plan (adopted March 2021), Policy CE10 of the Cotswold AONB Management Plan 2018-23 and Manual for Gloucestershire Streets (adopted July 2020).

- 4 The application site lies adjacent to designated heritage assets (grade II listed Hewlett's Reservoir and Pavilion). The proposals would have an unacceptable harmful impact on the setting of the heritage assets within Hewlett's Reservoir. As such, the proposed works are considered not to sustain or enhance the designated heritage assets and would cause harm to the significance of the affected designated heritage assets. In weighing this harm against the public benefits of the proposal, through the provision of housing, the public benefits of the proposals are not considered to outweigh the harm caused to the significance of the affected heritage assets. The proposed development is therefore contrary to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990, Policy SD8 of the Joint Core Strategy 2017, Policy CE6 of the Cotswold AONB Management Plan 2018-23 and Chapter 16 of the National Planning Policy Framework.
- 5 Policies INF4, INF6 and INF7 of the Joint Core Strategy (JCS) (adopted 2017) (and Policy CI1 and CI2 of the Cheltenham Plan) state that where infrastructure requirements are generated as a result of site proposals, new development will be served by appropriate on and/or off site infrastructure (including maintenance requirements) and community services. Financial contributions towards the provision of necessary infrastructure and services will be sought through the s106 or CIL mechanisms, as appropriate.

Policy SD12 of the JCS seeks the provision of 40% affordable housing in developments of 11 or more dwellings within the Cheltenham Borough administrative area. Affordable housing requirements will be delivered by way of on and/or off site provision and secured through the s106 mechanism.

The proposed development will lead to:

1. An increase in demand for playspace provision in the Borough and therefore the development should mitigate its impact in terms of adequate provision for on and/or offsite outdoor playing space. (Supplementary Planning Guidance - Playspace in Residential Development, Policy INF4, INF6 of the JCS, Policy CI1 and CI2 of the Cheltenham Plan and Section 8 of the NPPF)
2. Management and maintenance of hard and soft landscaped areas and any private streets
3. A need to provide for an element of affordable housing (Policy SD12 of the JCS and Policy CI1 of the Cheltenham Plan) which would be expected to be provided in full on site.

No agreement has been completed to secure the delivery of affordable housing requirements, and schemes/strategies for play space provision and site management and maintenance. The proposal therefore does not adequately provide for affordable housing requirements, schemes/strategies for play space provision and site management maintenance and conflicts with Policies SD11, SD12, INF3, INF4, INF6 and INF7 of the JCS, Policies CI1 and CI2 of the Cheltenham Plan (adopted 2020), Supplementary Planning Guidance – Playspace in Residential Development and the NPPF as referred to above.

- 6 Policy INF4, INF6 and INF7 of the Joint Core Strategy (JCS) (adopted 2017) (and Policy CI1 of the Cheltenham Plan) states that where infrastructure requirements are generated as a result of site proposals, new development will be served by appropriate on and/or off site infrastructure and community services. Financial contributions towards the provision of necessary infrastructure and services will be sought through the s106 or CIL mechanisms, as appropriate. The proposed development will lead to a need to provide for education and libraries provision for the future residents (Policy INF6 of the JCS).

There is no agreement from the applicant to pay the requested financial contributions towards education (school places) and libraries provision that would be generated by the proposed development to make the application acceptable in planning terms. The proposal therefore does not adequately provide for education and library provision and conflicts with Policy INF4, INF6 and INF7 of the JCS (adopted 2017), Policy C11 of the Cheltenham Plan (adopted 2020) and guidance on developer contributions set out in the NPPF, CIL Regulations (as amended) and DfE Guidance on Securing Developer Contributions for Education.

- 7 Policies INF4, INF6 and INF7 of the Joint Core Strategy (JCS) (adopted 2017) (and Policy C11 of the Cheltenham Plan) state that where infrastructure and services requirements are generated as a result of site proposals, new development will be served by appropriate on and/or off site infrastructure, services and other remedial measures. Financial contributions towards the provision of necessary infrastructure, services and other remedial measures will be sought through the s106, s278 or CIL mechanisms, as appropriate. The proposed development would lead to a requirement for necessary off-site highway improvement works (JCS Policies INF1 and INF6) and the implementation of the Residential Travel Plan.

No agreement has been completed to secure the provision of necessary highway improvements works and the funding and implementation of the Residential Travel Plan. The proposal fails therefore to meet the expectations of Policy INF1 and INF6 of the JCS (adopted 2017), Policy C11 of the Cheltenham Plan (adopted 2020) and guidance on developer contributions set out in the NPPF.