

# Oakley Farm Planning Objection 20/01069/OUT



Friends of Oakley Farm  
Pasture Slopes



[www.oakleyfarmpastures.wixsite.com/oakley](http://www.oakleyfarmpastures.wixsite.com/oakley)

Friends of Oakley Farm Pasture Slopes (FOFPS) is a local campaign group established in 2019 when the applicant made preliminary enquiries to build on this land. We represent the views of our many local supporters who are against inappropriate development of land that forms part of the Cotswolds Area of Outstanding Natural Beauty (AONB).

We object to this development proposal for Oakley Farm, which lies in the Cotswolds AONB.

## **Introduction**

An AONB is an area with statutory national landscape designation, the primary purpose of which is to conserve and enhance natural beauty. This development proposal would conflict with this purpose. Together with National Parks, AONBs represent the nation's finest landscapes and should be afforded the highest level of protection.

Section 85 of the Countryside and Rights of Way Act 2000 (CROW Act) states: "In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty."

Para. 15 of the National Planning Policy Framework (NPPF) states: "The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings."

Together with the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy the recently adopted Cheltenham Plan 2020 comprise the statutory development plan for Cheltenham up to 2031.

Section 1.4 of the recently adopted Cheltenham Plan states: "In a plan-led system, the development plan and neighbourhood plans set out the overarching context and specific policies that are used to manage and guide development through the decisions the Council makes on planning applications. The development plan also sets out higher-level objectives and aspirations that aim both to conserve what is valued and cherished within Cheltenham and to encourage development in spatial and policy areas the Council wishes to promote in the public interest."

Also from the Cheltenham Plan, para. 2.9 (Vision Theme C) includes objective (b) as follows: "Conserve, manage and enhance Cheltenham's natural environment and biodiversity, including its parks and gardens, its trees and green spaces, its countryside, and the Cotswolds Area of Outstanding Natural Beauty."

Views of the Cotswold escarpment from the lower level are a recognised 'Special Quality' of Cheltenham and this proposal would significantly change the character of this section of the Cotswolds AONB. As noted in para. 8.3 of the Cheltenham Plan:

“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.”

The policies and legislation referred to above emphasise the importance of protected land to our landscape, visual amenity, community and wellbeing. They also reinforce the incumbent responsibility on our decision-makers to exercise the utmost care and consideration when considering development proposals in relation to such areas of land.

### **Oakley Farm Setting**

This area of land on the urban edge of Cheltenham falls within Landscape Character Area 2D (Cooper’s Hill to Winchcombe) and therefore has the assignment of Landscape Character Type 2 – Escarpment as assessed in the Cotswolds AONB Landscape Strategy and Guidelines (June 2016). It was designated as an AONB in 1966 and further extended in 1990. A key view of the dramatic scarp to the edge of Cleeve Common Site of Special Scientific Interest (SSSI) was, until recently, afforded through the site from the adjoining Harp Hill road. Extended views were also available to Nottingham Hill, Oxenton Hill and Bredon Hill, all points within the Cotswolds AONB. However, the owners of the site have adopted a policy of allowing the boundary hedge to grow vertically uncontained, thereby hiding from the public these treasured views. From several locations, views into the site offer a parkland setting, with fields bounded by established hedgerows and veteran and ancient broad leaf trees. Several points around the site offer valued, distinctive, panoramic and pleasant views both into and through the site. The proposed development would have a significant and detrimental visual impact on these views between the interconnected areas of the AONB as well as into and through the AONB.

### **Cotswolds AONB**

One of the core planning principles of the NPPF is contained within para. 170, which sets out that the planning system should recognise the intrinsic character and beauty of the countryside and should contribute to and enhance the local environment by protecting and enhancing valued landscapes. The proposed development would have a severe and adverse impact on this natural environment and its visual local aesthetic value and attractiveness. The quality alone of this deep and wide-open landscape is reasoned justification for protection in its own right, however, it also provides a complementary and unrestricted foreground to expansive near and distant views into both the Cotswolds AONB and Malvern Hills AONB.

Land to the west, south, north and northeast is now residential, however, this is no justification for the site’s development. In 1966 the area was designated AONB and reconfirmed and expanded in 1990 when, even at the time, the large-scale

multistorey mass of the structures and buildings of the GCHQ site were present where the new housing units now sit.



**Fig 1.** Little difference in the built mass between the 1990s and now.

Though the land is surrounded on three sides by residential development, its intrinsic qualities and open character contribute to expansive views both within and without the AONB. These attributes are unaffected by the position of Oakley Farm, and the existing urban edge exerts very little influence and does not devalue its influence on the character and landscape quality of the AONB. Information provided by the Costwolds Conservation Board confirms this: in Woolmore, R (2004) *Designation History Series. Cotswolds AONB. Volume 1.* Countryside Commission, para. 58 refers to boundary changes along the eastern edge of Cheltenham in 1990, in which “the officers’ briefly discussed the problems of delineating AONB boundaries on urban settlement ‘edges’, and concluded that it was not appropriate for an AONB boundary to coincide with an urban edge unless the quality and character of the landscape has remained unimpaired by its proximity to urban development. With this principle in mind, the officers looked at a number of proposals for boundary

change ... and recommended that certain small areas adjacent to ... Cheltenham should be added to the AONB". In this case the westernmost field of this proposal justified its addition to the AONB in the 1990 boundary confirmation.

Further historical aerial views of the site can be found in the accompanying "Oakley Farm Photographic Catalogue".

The AONB's Special Qualities include "tranquillity", which is defined in the AONB Management Plan as "essentially the absence of inappropriate noise, development, visual clutter and pollution ... a feeling of being away from it all". This site in its current form clearly contributes to that tranquillity. It provides a peaceful environment for many wild animals and is an almost permanent residence to small herds of deer, both roe and muntjac, badgers, foxes, owls, bats and polecats.

### **Views and Visual Amenity**

Standing at various edges of the site, unimpeded and green foreground views are afforded across to the escarpment and the far distance. Urbanising these views would therefore have a severe and adverse impact on this important and significant visual pleasure. All views whether into, within, without or through this section of AONB must be given the utmost protection. Vistas of new housing would be detrimental and marred even further by associated paraphernalia, such as clothes lines, waste bins, garden features and play areas. These would add to the overall suburbanisation effect arising from the proposal and would compromise the predominantly rural character of this part of the AONB when viewed from the adjacent footpaths.

The proposed development would result in an unwarranted intrusion into the Cotswold AONB which, if allowed, would result in severe degradation of the current visual amenity, creating significant and demonstrable harm to the qualities and intrinsic beauty of this part of the AONB. The development and its access roads would be very prominent from widespread elevated views from within the AONB. This would be particularly apparent from the highest point in the Cotswolds situated within the Cleeve Common SSSI, and from several footpaths on Cleeve Hill, including but not limited to an extended and open section of the nationally recognised Cotswold Way long distance trail.

More locally, the proposed development would be an extremely prominent feature from both Charlton Kings footpath 12 and Priors Road. Significantly, there would also be a very substantial alteration to the views of the Cotswold escarpment from the extensively used Cheltenham footpath 86, which borders the site's western boundary. New houses would dominate a large proportion of this view and the openness and rural feel of this footpath would be severely harmed. From Harp Hill, views from the road into the site would also be substantially altered. The broad leaved ancient and veteran oak trees, which form the foreground to stunning views of the Cotswold scarp, would be completely lost and replaced by development and slow growing mitigation greenery.

A selection of images from a variety of viewpoints is available in the accompanying "Oakley Farm Photographic Catalogue". These photographs show the long-range

visibility of the whole site from a wide area and also exhibit the value of its near view qualities.

**Applicant's Environmental Statement (ES), section 6: Landscape and Visual**

The number of new buildings and the extent of the access roads, footways, hard surfaced areas and other infrastructure would be of significant scale in this part of the AONB. Given the size, setting and the significantly adverse impact that the proposal will have upon the purposes for which this area was designated, it must be demonstrated that there are exceptional circumstances in order to permit development. The applicant has not shown this to be the case.

Within the applicant's Environmental Statement (ES), at 6.3.29 there is an opinion given that the site is isolated from open wider countryside by the engineering structures of Hewletts Reservoir, and there are various assertions of a disassociation with the wider AONB. However, this opinion can be readily contradicted, even by the applicant's own evidence. The attached photograph shows how well the sympathetically covered and concealed reservoir complex blends with the surrounding landscape creating a flawless visual continuance into the rising ground of the escarpment. This assessment is even confirmed in the applicant's own ES summary of baseline analysis at 6.3.61 with "...long distance views from the edge of Cleeve Common and the escarpment southwards towards the study site. From these views the site is experienced as part of a "green wedge" of land that extends from the landscape east of the study site area through the reservoir and into the general urban area"; and at 6.4.19 with "The structures of Hewletts Reservoir are engineered but maintain a green space adjoining Harp Hill which forms a link between the study site and the wider Cotswolds countryside".



**Fig 2.** Hewletts Reservoir well-disguised.

Within paras. 6.3.57 and 6.4.17 of the ES there is a misunderstanding of the location and outlook from residential margins on the east and northeast boundary of the study site. The western and southernmost sections of Birdlip Road are located within the AONB as are properties on Highnam Place, Ledbury Court and Bream Court. Several of the properties' daytime living accommodation rooms are located on the upper floors, which offer open outlooks and extensive near and long distance views into and through the site to the west, southwest and northwest. These views are far reaching and extend over the Cheltenham roof line and as far as the Welsh mountains. The significance of the landscape and visual effects from these locations has been significantly underestimated. The development proposal is in such close proximity to these dwellings that they will be subject to a high magnitude of visual change. Therefore, as a visual receptor, they must be assessed as **high susceptibility** and experience **regional value** views. Similarly, the outlook from properties along Brockweir Road and Pillowell Close affords views into the parkland setting that is Oakley Farm, and as such these also justify a higher assessed views descriptor.



**Fig 3.** AONB boundary. Map Source: [magic.defra.gov.uk](http://magic.defra.gov.uk)

The ES frequently refers to the hedgerow boundaries being in a medium to poor condition. It should be borne in mind that the characteristics of the Cotswold landscape are not exclusively defined by the existence of oolitic limestone, stone slate roofs, dry stone walls and Cotswold vernacular building types. Hedgerows, not always in perfect condition, as field dividers with sporadic broad leaf trees are more common at the scarp foot, and in this respect Oakley Farm is considered not uncharacteristic of the AONB.

The site is described in the ES as “former agricultural land”, however, throughout 2020 it has been in almost constant use as grazing pasture for sheep.

It is claimed that locating the proposed dwellings in the lower section of the fields, together with the provision of new hedgerows and a scheme of tree planting across the site, would reduce the landscape and visual impact of the proposals. However, the landform of the site would be significantly altered and its openness would be permanently lost. These attempts to moderate the impact of the development would have only a very limited effect and the wonderful parkland setting of the lower slopes would be destroyed. The applicant also advises that extensive groundworks, “cut and fill”, will be required, again to mitigate the development’s visual intrusion. However, there is no detail on this earth-moving operation, which will no doubt have a significant and detrimental effect on the area’s natural landform.

Throughout the assessment of visual effects contained within the ES, the applicant has conceded that there are many areas where the development will be detrimental in this regard. Assessments of Minor, Moderate or Major Adverse litter the report even after mitigation measures are considered. Of course, the mitigation measures will in any case never prevent the loss of the near views into the AONB from roads and footways adjacent to the site. These views will be lost forever from day one of the build project causing severe deterioration to the existing views resulting in



considerable variance to the landscape. The outcome is a visual effect that can only ever be Major Adverse.

Below are current typical views into the study site from public viewpoints at PROW footpath 86 at the site's western edge, and from Harp Hill at the site's south east corner. These are each followed by indicative views from the same locations following the proposed development. These images do not seek to suggest house types or exact locations; rather they are presented to illustrate how the development could severely impact on views from within and through the AONB. Clearly, after development the outlooks will be radically changed and suffer significant harm. Outcomes such as these will be experienced from many locations at the site's peripheries.



**Fig 4. Before development from mid-point PROW footpath 86.**



**Fig 5. Indicative outlook after the proposed development, year 1 same location.**



**Fig 6. Current scene from Harp Hill. Broad leaf oaks form the foreground to the Cotswold Escarpment. The Grade II listed Hewletts Reservoir Pavilion complements the scene**



**Fig 7. Indicative view after development, year 1. New housing now forms the viewpoint's foreground, detracting from the scene and the setting of the listed asset, Hewletts Reservoir Pavilion**

It is our view that the overall landscape and visual effects of the development proposals will result in the **significant loss** of sloping pasture which makes a **major contribution** to the local landscape character and visual amenity. No amount of mitigation will repair the deterioration in outlook that will be experienced by many from adjacent footpaths, roadways and residences. The claim of inherent mitigation through retained vegetation and natural topography is baffling, particularly as the latter will be significantly altered with the proposal's intent to "cut and fill" to change the landform. The potential impacts are predicted to have the greatest landscape and visual effects on the immediately adjacent landscape which falls both within and within the setting of the AONB. Conserving and enhancing landscape and scenic beauty in the AONB is the critical thread and overriding requirement throughout planning policy and guidance, against which potential development within the AONB will be considered. It is our view that the applicant has failed to achieve this; the proposal is therefore contrary to both local and national planning policy in this regard.

## **Planning Policy**

### **Joint Core Strategy (JCS)**

#### **Policy SD7: The Cotswolds Area of Outstanding Natural Beauty**

*"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 Management Plan and guidance are material considerations in determining planning applications in or affecting the AONB."*

As outlined above, this development proposal fails to conserve or enhance this area of the AONB and so is contrary to JCS Policy SD7.

#### **Policy SD10: Residential Development**

*"The JCS guides new housing development to sustainable and accessible locations as set out in Policy SP2."*

...

*2. Housing development will be permitted at sites allocated for housing through the development plan, including Strategic Allocations and allocations in district and neighbourhood plans*

*3. On sites that are not allocated, housing development and conversions to dwellings will be permitted on previously-developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District plans*

4. *Housing development on other sites will only be permitted where:*

- i. It is for affordable housing on a rural exception site in accordance with Policy SD12, or;*
- ii. It is infilling within the existing built up areas of the City of Gloucester, the Principal Urban Area of Cheltenham or Tewkesbury Borough's towns and villages except where otherwise restricted by policies within District plans, or;*
- iii. It is brought forward through Community Right to Build Orders, or;*
- iv. There are other specific exceptions / circumstances defined in district or neighbourhood.*

...

*All relevant policies in the JCS, district and neighbourhood plans will be applied alongside this policy to ensure that proposals have no detrimental impacts, including any impact on the amenity, economy, and natural, historic and built environment of their surroundings, on the local or strategic road network, or on the health of current or future residents.” (SD10 para 4.10.11)*

This site, located outside of the Principle Urban Area of Cheltenham, is not allocated for housing in the development plan and neither is it contained in the Strategic Allocations. In fact, on several occasions it has been rejected for inclusion as being unsuitable and unachievable because of its AONB designation. The proposal therefore fails to meet the requirements of JCS Policy SD10.

Policy SD14: Health and Environmental Quality

*“2. New development must:*

- i. Cause no unacceptable harm to local amenity including the amenity of neighbouring occupants”*

As previously highlighted, there are many properties which border the proposed site, both within the AONB and within the setting of the AONB. Many of these neighbouring occupants will be significantly and detrimentally affected by the proposed development. Loss of outlook, overlooking and loss of privacy will be unwelcome consequences faced by many. Residential amenity, including residential visual amenity, has been given little regard in the indicative masterplan and the impact has been significantly underestimated in the applicant's Environmental Assessment.

It is clear that local amenity will diminish significantly. Long range views from the adjacent footpath 86 will be truncated and replaced with near views of housing development. The far-reaching outlook from Harp Hill to the AONB escarpment, with the hedgerows and ancient and veteran oaks of the site which currently fill the foreground view, would be replaced with development housing and connecting roadways. Similarly, the expansive views to the Malvern Hills AONB would have a foreground filled with new development.

This development will create significant and unacceptable harm to the local amenity including the amenity of neighbouring residential occupants contrary to JCS Policy SD14.

## **Cheltenham Plan 2020**

### Policy L1: Landscape and Setting

*“Development will only be permitted where it would not harm the setting of Cheltenham including views into or out of areas of acknowledged importance.”*

*Para. 7.1. “Cheltenham owes much to its setting at the foot of the Cotswold escarpment. The town’s eastern fringes include the high-quality scenery of the escarpment, with landscape and woodlands that are designated as part of the Cotswolds Area of Outstanding Natural Beauty (AONB).”*

*Para. 7.4. “Cheltenham’s attractive setting is undoubtedly one of its prime assets and is recognised by the emerging Place Strategy for the Borough as a key factor in helping to achieve sustainable economic growth and securing social wellbeing. The Council will therefore seek to continue the protection of the town’s setting and encourage its future enhancement through sensitively designed / located development.”*

*Para. 7.5. “In doing so, the Council is mindful of the need to protect views into and out of areas of acknowledged importance such as ... the AONB, ... listed buildings and buildings of local importance.”*

*Para.7.6. “The above policy is designed not only to complement the policy stance of the Joint Core Strategy (JCS) but also to add further dimension through the recognition of local distinctiveness and the particular environmental qualities that make Cheltenham special.”*

*Para. 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.”*

*Para 8.4. “In assessing proposals for development, the Council will be guided by Para.172 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.”*

## **Cotswolds AONB Management Plan**

### Policy CE1: Landscape

*“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 CE11: Major Development

*“Proposals for major development in the Cotswolds AONB and in the setting of the AONB, including site allocations in Local Plans, must comply with national planning policy and guidance and should have regard to – and be compatible with - the guidance on major development provided in Appendix 9 of the Cotswolds AONB Management Plan.”*

*Appendix 9 of Cotswolds AONB Management Plan:*

*“The purpose for which the Cotswolds AONB has been designated is to conserve and enhance its natural beauty. Therefore, the judgement as to whether or not a development is major development depends, to a large degree, on whether or not the development could have a significant adverse impact on the natural beauty of the AONB. As outlined in Appendix 2, natural beauty incorporates a number of criteria, including landscape quality, scenic quality, tranquillity, natural heritage and cultural heritage. Within the context of the Cotswolds AONB, those aspects of the AONB's natural beauty which make the area distinctive and which are particularly valuable – the AONB's special qualities - are listed in Chapter 2. [\*]*

*On this basis, a development should be considered ‘major’ if, by reason of its nature, scale and / or setting, it could have a significant adverse impact on any of the above criteria, including the AONB's special qualities. As well as potential impacts within the AONB, consideration should also be given to impacts on these criteria within the setting of the AONB, particularly in the context of visual impact (i.e. views into and out of the AONB), dark skies and tranquillity.”*

[\* Relevant ‘Special Qualities’ from Chapter 2 are:

- *“the Cotswold escarpment, including views from and to the AONB;*
- *the tranquillity of the area, away from major sources of inappropriate noise, development, visual clutter and pollution;*
- *significant archaeological, prehistoric and historic associations dating back 6,000 years, including... ridge and furrow fields”]*

We consider that this planning proposal would not accord with these criteria and special qualities. Drawing the above together we consider that the proposal will materially harm the natural beauty of this area of AONB and have a significant adverse impact upon the purposes for which this area was designated. The applicant's Environmental Statement Table 6.6 confirms that the development proposal will significantly impact upon views from several locations to a Minor/Moderate Adverse degree, although in our opinion this is an underestimation of the degree of harm caused, and more appropriate gradings would be

Major/Moderate Adverse. Nevertheless, this is a clear indication that the scenic beauty and visual amenity will be neither conserved nor enhanced by this proposal.

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

#### Para 170:

*“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*

*b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”*

#### Para 171:

*“Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework<sup>53</sup>; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.”*

Along with National Parks, AONBs have the highest status of protection with regards to conserving landscape and scenic beauty and are nationally designated sites with huge environmental and amenity value. It therefore stands to reason why Oakley Farm has been discounted for inclusion in previous and current development plans. The loss or diminution of this landscape would significantly harm the character and appearance of the area.

#### Para. 172:

*“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... The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development<sup>55</sup> 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.”*

By extending the built environment into this area of the AONB, the proposal would diminish and encroach on the pleasant and distinctly rural views when seen from the roads and public footpaths in the general vicinity. Accordingly, it would have a significant detrimental effect on the character and appearance of the area, conflicting with the purpose of conserving and enhancing the scenic beauty of the AONB.

The proposed development would conflict with para. 170 in the NPPF in that it fails to contribute to and enhance the natural and local environment by: a) protecting and enhancing this valued landscape and b) failing to recognise the intrinsic character and beauty of the countryside.

We can find no exceptional circumstances why this development should be permitted. There are no national considerations and it would have a negligible benefit on the local economy. The detrimental effect, however, on the environment, landscape and recreational visual amenity would be negative and significant. Given that great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB the balance falls firmly on the significant harm that would be caused.

### **Cheltenham Borough Council Landscape Character, Sensitivity and Capacity Assessment of Cotswolds AONB / May 2016**

Cheltenham Borough Council commissioned Ryder Landscape Consultants to undertake a Landscape Character, Sensitivity and Capacity Study of the Cotswolds AONB and Cheltenham Urban Fringe as part of its emerging Cheltenham Plan. This was published in 2015 and later revised in 2016. This included an assessment of the visual amenity and the value and potential capacity to accommodate new development in areas of the AONB.

Oakley Farm Pasture Slopes, the site of the development proposal, was wholly and specifically included in this study. Extracts from the study and conclusions are as follows:

#### Landscape Character Area Site Ref: LCA 7.1. Oakley Farm Pasture Slopes:

##### *Visual Sensitivity:*

*“...the views looking from the area are expansive and panoramic, resulting in an overall visual sensitivity of **High**.”*

##### *Landscape Character Sensitivity:*

*“...the small to medium scale of the landscape character area, high levels of well maintained boundary vegetation, sloping topography and views into the area from*

*adjacent residential properties and Harp Hill, the overall landscape sensitivity is assessed as **High**.*”

*Landscape Value:*

*“The landscape character area falls within the designated area known as the Cotswolds AONB, which is a national designation. With the numerous footpaths that exist across the character area, the area has moderate recreational value. With the sloping topography of the landscape the land is particularly visible from residential properties to the south of the area. The visual connections with the escarpment slopes to the northeast of the area are valuable perceptual aspects. The quality of the landscape elements are moderate, with predominantly hedgerow boundaries in good condition. Given the LCA falls within a nationally recognised AONB designation, and taking into consideration the visibility of the site and the generally good condition, the overall value of the landscape character area is assessed as **High**.”*

Resulting in:

*Overall Landscape Constraint of “**Major Overall**”*  
*and*

*Resulting Landscape Capacity of “**Low Overall**”*

When combining the above, it is concluded that the proposed development would result in severe harm to the site’s landscape character, create a harmful visual impact in respect of views from several escarpment locations and from roads and public footpaths around Harp Hill, Brockweir Drive and Cheltenham footpath 86, and would cause great harm to the natural beauty of the AONB. In this regard the scheme would be in conflict with the previously noted development plan policies. The applicant has attempted to subdivide the site and devalue the lower slopes in an attempt to justify the development. The site must be assessed as a whole; it was collectively designated and reconfirmed as AONB and as such must remain. The lower sections play a significant part in the overall parkland feel of the area and would justify protection in equal measure to the upper slopes. We consider that the proposal would:

- cause severe harm to the local landscape character, which would lose its visual connection with the escarpment and the remaining expanse of the Cotswolds AONB;
- represent significant and demonstrable harm to the AONB and the setting of the Cotswolds Escarpment; and
- be conspicuous in valued and elevated views from within and without the AONB, resulting in substantial harm to the rural character of valued landscapes.

## **5 Year Housing Land Supply**

The Council accepts that it is unable to demonstrate a five year housing land supply (HLS) within the district. This would invoke the guidance in NPPF para. 11. d). Further, regard must be given to para. 11. d) i. Because the planning authority cannot demonstrate a five year housing land supply then the policies which are

considered most important for determining the application are to be considered out of date. The whole test would result in applying 11. d) i. as follows:

“11. Plans and decisions should apply a presumption in favour of sustainable development.

...

For **decision-taking** this means:

d) where ... the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>”

<sup>6</sup> “The policies referred to are those in this Framework (rather than those in development plans) relating to ... land designated as ... an Area of Outstanding Natural Beauty...”

<sup>7</sup> “This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites...”

The protected area referred to in 11. d) i. in this case is the AONB and the relevant policy referred to is NPPF para. 172.

Case law offers guidance in this area as follows:

**Reference: Monkhill Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1993 (Admin) (24 July 2019).**

The following paragraphs are the most relevant, however, the whole case can be found here: <https://www.bailii.org/ew/cases/EWHC/Admin/2019/1993.html>.

*“8. Paragraph 172 of the NPPF sets out the policy on development in AONBs, National Parks and the Broads. The first part of the policy applies to development generally within these designated areas and provides as follows: -*

*“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. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within these designated areas should be limited.””*

*“51. It is necessary to read the policy in paragraph 172 as a whole and in context. Paragraph 170 requires planning decisions to protect and enhance valued landscapes in a manner commensurate with their statutory status and any qualities*

*identified in the development plan. Paragraph 172 points out that National Parks, the Broads and AONBs have "the highest status of protection" in relation to the conservation and enhancement of landscapes and scenic beauty. Not surprisingly, therefore, paragraph 172 requires "great weight" to be given to those matters. The clear and obvious implication is that if a proposal harms these objectives, great weight should be given to the decision-maker's assessment of the nature and degree of harm. The policy increases the weight to be given to that harm.*

*52. Plainly, in a simple case where there would be harm to an AONB but no countervailing benefits, and therefore no balance to be struck between "pros and cons", the effect of giving great weight to what might otherwise be assessed as a relatively modest degree of harm, might be sufficient as a matter of planning judgment to amount to a reason for refusal of planning permission, when, absent that policy, that might not be the case. But where there are also countervailing benefits, it is self-evident that the issue for the decision-maker is whether those benefits outweigh the harm assessed, the significance of the latter being increased by the requirement to give "great weight" to it. This connotes a simple planning balance which is so obvious that there is no interpretive or other legal requirement for it to be mentioned expressly in the policy. It is necessarily implicit in the application of the policy and a matter of planning judgment. The "great weight" to be attached to the assessed harm to an AONB is capable of being outweighed by the benefits of a proposal, so as to overcome what would otherwise be a reason for refusal.*

*53. Interpreted in that straight forward, practical way, the first part of paragraph 172 of the NPPF is capable of sustaining a clear reason for refusal, whether in the context of paragraph 11(d)(i) or, more typically where that provision is not engaged, in the general exercise of development management powers."*

*"63. For all these reasons the claim is dismissed. The first part of paragraph 172 of the NPPF qualifies as a policy to be applied under limb (i) of paragraph 11(d) of the NPPF; it is also capable of sustaining a freestanding reason for refusal in general development control in AONBs, National Parks and the Broads."*

### **Conclusion:**

This proposal is for inappropriate development in the AONB which will have severe and significant adverse effects on the natural and local environment even with mitigation measures in place. Its impacts will be widely evident with the loss or degradation of treasured views from many public viewpoints. Contrary to both national and local policy, the proposal will have no positive conserving or enhancing effect on landscape character, visual amenity or scenic beauty and will amount to a loss of openness and local distinctiveness in this area of the Cotswolds AONB. Policy dictates that in these areas great weight regarding conserving and enhancing landscape and scenic beauty must be given. Because of its location and these significant adverse effects on the character and appearance of the area, JCS SD7, SD10 and SD14 and NPPF 172 provide clear reason for refusing the proposed development.