

FAO Mrs Lucy White, Senior Planning Officer
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham

Dear Lucy,

REF: 20/01069/OUT - 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 - Oakley Farm Priors Road Cheltenham Gloucestershire GL52 5AQ

An application has been made by Robert Hitchins Limited for outline planning permission for a development within the Cotswolds Area of Outstanding Natural Beauty (AONB) comprising up to 250 residential dwellings on land at Oakley Farm served by a new access from Harp Hill.

The application has been made in outline with all matters reserved except access. However, the applicants have acknowledged that the Grade II reservoir structures are a potential constraint to development. They have also made much of the argument about developing the lower slopes/section of the site, placed a strong emphasis on the landscape scheme prepared in support of the development and on the contribution 250 houses would make towards Cheltenham's housing shortage. As such, although the application indicates that the plans are 'illustrative' it is clear that these plans essentially represent the intended housing estate layout and landscaping and therefore should be considered carefully in the assessment of the application.

The following objection is lodged on behalf of my clients, [REDACTED], who reside at Cleevesyde, Harp Hill which is located immediately opposite the proposed new access to the residential estate and which, along with a great number of other dwellings on Harp Hill and surrounding residential roads, will be most directly and adversely affected by this development. The objections lodged by the Cotswold Conservation Board and Friends of Oakley Farm Pasture Slopes are fully supported.

There is no disputing the fact that the proposal constitutes 'major development' within the terms of paragraph 172 (Section 15 – Conserving & enhancing the Natural Environment) of the National Planning Policy Framework (NPPF) by virtue of its nature, scale and setting and having regard to the significant adverse impact it could have on the purposes for which the area has been designated or defined (See Footnote 55 to paragraph 172).

The Council's Landscape Character and Sensitivity Assessment (May 2016) (LCSA) undertaken by Ryder Landscape Consultants - a Landscape Character, Sensitivity and Capacity Study of the Cotswold AONB and Cheltenham Urban Fringe, undertaken as part of the Cheltenham Plan (recently adopted) to assess the landscape character and sensitivity of the landscape, the visual amenity and the value and potential capacity to accommodate new development in the AONB, determined in relation to the Oakley Farm Pasture Slopes character area (the application site): The Visual Sensitivity of the character area to be **High**; The Landscape Character Sensitivity of the character area to be **High**; The Landscape Value of the character area to be **High**. The Overall Landscape Sensitivity to be **HIGH** with the Overall Landscape Constraint identified as **MAJOR OVERALL**. The Overall Landscape Capacity i.e. the capacity of the character area to accommodate further development is identified as **LOW OVERALL**. Any development, even of a small scale nature let alone a development of 250 houses, is therefore likely to have a significant adverse impact on the AONB.

The first part of **Paragraph 172 of the NPPF** 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 Broads⁵⁴. The scale and extent of development within these designated areas should be limited.'

The second part of paragraph 172 applies solely to "major development" and states that the development control policy applicable to major development in an AONB is that:

'Planning permission should be refused for major development⁵⁵ 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.'*

Thus paragraph 172 states quite clearly that development in the AONB should be limited and, where major development is concerned, **refused except in exceptional circumstances and where it can be demonstrated that the development is in the public interest.**

The planning statement accompanying the application acknowledges that exceptional circumstances are required to outweigh the 'great weight' to be given to conserving and enhancing the landscape and scenic beauty of the AONB. The arguments submitted on behalf of Robert Hitchens Ltd in support of the proposal firstly, suggest that the development of 250 houses on this site will conserve the character of the site and enhance its landscape essentially by taking issue with and disagreeing with the findings of the Council's Landscape character, Sensitivity and Capacity Study (LCSA) undertaken by Ryder Landscape Consultants in respect of this particular site; secondly, by claiming that exceptional circumstances exist to allow this major development within the AONB; and thirdly, by arguing that the titled balance of NPPF policy 11(d) should be applied.

In respect of the second point, it seems clear from reviewing the documents submitted with the application that the 'exceptional circumstances' relied on to justify this development in the AONB amount to:

- the housing shortfall and the contribution to meeting Cheltenham's housing need;
- improving accessibility to the site and AONB countryside, providing a new open space with new views and enhanced views for those, like my clients, that live on Harp Hill directly overlooking the site; and
- an enhancement in biodiversity.

I, on behalf of my clients, take issue with and strongly dispute all the arguments put forward.

The premise for the proposed development as put forward is fundamentally flawed and, if accepted, would undermine the LCSA of the Cotswolds AONB within the Cheltenham administrative area not only for this site but for any other site within Cheltenham's AONB and would thus threaten the long term protection of the AONB and its special qualities which are recognised nationally of great importance.

The assertion that the LCSA of Cheltenham's AONB has taken a too 'broader' approach to the assessment of the areas within the AONB rendering its findings less than useful is, quite frankly, absurd. The developers are clutching at straws! The LCSA considered the physical influences and natural factors, human influences and cultural factors, views, quality and condition of landscape and component features, aesthetics and perceptual qualities in each of, no less than, 42 land parcels falling within an area of the Cotswolds AONB Landscape Character Type 2: Escarpment, Landscape Character Area 2C Escarpment: Copper's Hill to Winchcombe, based on both desk top and field surveys. The field surveys considered national, regional and local designations along with 11 other criteria - Landscape quality (condition), Rarity, Representativeness, Recreation value, Perceptual aspects, Tranquillity, Remoteness, Wildness, Scenic beauty, Cultural associations, and Conservation interests to determine the 'value' of each site. This methodology certainly doesn't suggest the 'broad brush' approach suggested by the applicant's consultants.

The applicant further seeks to discredit the LCSA on the basis that it concluded that there were 'Major Landscape Constraints' and a 'Low Capacity' for built development in all 42 areas studied. They fail to acknowledge, however, that the LCSA did identify that in 4 of the 42 areas there is some limited capacity for built development along the urban edge of Cheltenham that would have less impact on the landscape character and, with robust mitigation, could accommodate appropriate development. The LCSA did not however consider the application site, Oakley Farm Pasture Slopes, as falling into this category or being capable of accommodating change through development even with robust mitigation.

The main characteristic of the character area, as its name suggests, is the openness of the sloping pastoral farmland, comprising small to medium sized fields with its mature parkland setting, trees (including veteran trees of significance) and hedgerow boundaries. A development which sees 2/3rd of this character area developed with houses and the remaining 'finger' of land dissected by an estate road serving 250 houses would clearly compromise that open pastoral character. The submission made on behalf of the applicant itself acknowledges that there would be harm through the permanent loss of open pasture.

The LCSA considers the site to have 'High' Landscape Sensitivity unable to accommodate change caused by development; of high quality with distinctive elements and features making a positive contribution to the character and sense of place. It is further considered to have a 'High' Visual Sensitivity with long distance viewing opportunities including visual receptors with a particular interest in their surroundings or prolonged viewing opportunities.

The views from the area are defined in the LSCA as being expansive and panoramic looking across Cheltenham and the escarpment slopes of the Cotswold AONB with views being generally uninterrupted with the exception of intermittent trees within the boundary hedgerows. The elevated and sloping nature of the site also means that the site is highly exposed within both near and long views. In open, long distant views gained from recognised footpaths in the immediate locality and from the Cotswold Way National Trail the site forms a significant green wedge which informs the landscape setting of the settled landscape. These views are abundantly clear and well documented in a series of photographs provided by both the Cotswold Conservation Board and Friends of Oakley Farm Pasture Slopes. In respect of the views enjoyed by my clients, Mr and Mrs Fry, and others resident in the houses immediately south of the application site, atop the elevated topography, the LSCA notes that views over the character area (Oakley Farm Pasture Slopes) are expansive.

The proposed development would see the green wedge and the landscape setting of the surrounding settled area diminished to an inconsequential 'finger'. The proposed development, even limited to the bottom 2/3rd of the site will be visually intrusive from all viewing points. Post-development views from within the site, from either the new houses or the slither of land left open at the top of the site, will be curtailed – From the open land by the proposed new tree planting and from the proposed new houses, given the proposed slope remodelling, by the roofs and structures of other new houses.

The views from my clients' house and others immediately south of the site will again be curtailed, diminished and denigrated, cut off by new tree planting screening what would be a large housing estate. To suggest that the development of the new Oakley Grange site is a 'prominent visual detractor' in views from Harp Hill and that developing 2/3rd of the proposed site with houses, planting a band of trees, and creating a new estate road serving 250 houses opposite my clients' house will improve views is clearly a ridiculous argument that cannot be substantiated. In fact, the view from my clients' house and others immediately around it will be very much dominated by the comings and goings of the huge number of cars and the traffic likely to be generated by the development. The tranquillity of the area, another element of the character of the AONB, will be lost as a consequence of the new access and the noise of the additional traffic. Worse still, the location of the site access and the sloping topography of the site at this point will result in the enjoyment of my clients' house and their residential amenity being significantly marred by light pollution arising, in the evenings, from the headlights of cars leaving the estate shining directly up into the habitable room windows of their house.

It is clear that the findings of the LSCA and the landscape character and sensitivity of the Oakley Farm Pasture Slopes is not conducive to or supportive of any residential development of the site without harming its innate and intrinsic character. It is not surprising therefore that Robert Hitchins Ltd want to ignore it. On spurious grounds they wish to dismiss Ryder Landscape Consultants' LCSA, which informed the recently adopted Cheltenham Plan process, and undertake their own assessment of the site, in isolation from the wider AONB, in an attempt to justify development.

The applicant's assessment unsurprisingly overemphasises the impact of surrounding development on the rural character of the site and the benefits arising from the development. The submission states that the site's 'character is significantly degraded by the adjoining urban edges to the west and particularly the north' and that it is cut off from the wider countryside. However, the extent of development around the site remains much as it did when it was designated AONB initially in 1966 and then later through the AONB boundary extension which took in the westernmost part of the site. Furthermore, residential development on Harp Hill at the southern side of the site which includes my clients' house, is much less dense than the more recent residential development on the former GCHQ Oakley site and is more characteristic of its position on the periphery of the town giving way to a more rural landscape. The difference between the housing to the north/northeast and the housing along the southern boundary of the site along Harp Hill can be clearly appreciated from the site plan submitted with the application. It is also clear from the photographs submitted by the Cotswold Conservation Board and the Friends of Oakley Farm Pasture Slopes that the site is currently viewed and perceived within the wider AONB landscape of which it forms a part. Even with a tree belt, the proposal would be viewed as a significant expansion of the more densely developed urban settlement into the countryside.

Therefore, contrary to the claims made in the supporting statements submitted with the application, 'limiting development to the lower sloping areas adjoining the farmstead and ensuring that the upper slopes remain free of built form' *would not* retain the rural and green wedge character that contributes to the setting of Cheltenham as experienced in present views.

Regard must be given to the purposes of the AONB and, in particular, the advice in paragraph 172 of the Framework which states that great weight should be given to conserving and enhancing landscape and scenic beauty within such areas. It is clear that the proposed development, which is visually intrusive and would adversely affect the character and appearance of the area and the scenic beauty of the AONB, as identified and detailed in the LCSA, would give rise to significant harm and, as major development within the AONB, should be refused planning permission.

The applicant's consultants claim that there are exceptional circumstances and that development of the site would be in the public interest. The housing shortfall and the provision of housing, including both affordable housing and open market housing, to meet Cheltenham's housing need is promoted as the principal public benefit that would be generated by the scheme.

The redevelopment of the former GCHQ Oakley site has seen considerable housing development in the area in recent years including the development of affordable housing. Paragraph 6.5 of the applicant's planning statement states that the application proposes 'a policy compliant level of affordable housing i.e. 40%'. As such, the provision of affordable housing within the development would not be considered exceptional and therefore that the level of affordable housing provision could not be treated as an exceptional circumstance.

The 'tilted balance' set out in paragraph 11 of the NPPF does not apply to the consideration of whether exceptional circumstances exist with regard to paragraph 172 (Please refer to Planning Appeal Reference: APP/K1128/W/18/3208541- March 2019). The Council's shortfall in the 5-year supply of housing does not in itself amount to an exceptional circumstance. Although it is acknowledged that Cheltenham is generally constrained by AONB and Green Belt designations it is not the case that this site, which lies outside the town's Principal Urban Area and within the AONB, is the only site capable of delivering housing to meet housing needs. It is clear that, working with neighbouring administrative authorities, there is scope for housing development within less sensitive locations. Furthermore, it is noted that the LCSA identified that there are other areas of

the AONB within Cheltenham's administrative area which are capable of accommodating some limited development which would have less impact on the landscape character of the area. In this context, whilst the provision of housing on the site would serve a general need, and therefore provide a general public benefit, this would not in itself demonstrate the existence of exceptional circumstances.

The applicant suggests that improving accessibility to the site, providing new open space and improved access to the AONB countryside with new views, including those of the adjacent Grade II reservoirs would amount to exceptional circumstances. However, given the location of the site, the sloping topography, the dissection of the proposed open space by the estate road serving 250 houses and the limited views which could be gained out of the area as a consequence of the substantial tree planting belt, it is considered that any public benefit offered in this respect would be minimal, especially when weighed against the landscape harm arising from the development previously described. The open space provided at the top of the site serves rather to preserve the setting of the adjacent Grade II reservoirs. Both the proposed open space and public access to it is more appropriately viewed as mitigation against the landscape harm caused by the development rather than an exceptional circumstance.

The submission further suggests that biodiversity enhancements, the strengthening and revitalising the green infrastructure network amounts to an exceptional circumstance. It is clear from the reports submitted with the application that the site currently supports considerable wildlife. The expansion of towns and cities into such peripheral areas is putting the natural habitats of wild animals increasingly under threat. Bats in particular are vulnerable to development due in part to their sensitivity to habitat interference. There are 16 species of bat which are currently known to breed within the British Isles. All of these species have been subject to population declines to differing levels and are subject to high levels of legal protection to benefit their conservation. The South West is especially important for bats as all 16 species can be found here, including both species of horseshoe bat which are subject to much targeted conservation work due to their restricted range and significant declines over the past 100 years.

The ecology study submitted with the application identifies use of the site by 7 species of bat, 14 trees with features suitable to support roosting bats and high numbers of bats using the site at the height of seasonal activity. These factors tend to suggest that the wider ecosystem is healthy and capable of supporting a wide range of wildlife. The Environmental Statement acknowledges that the impact on bats would be considered 'adverse' prior to mitigation. The range of species detected on the site is however somewhat played down within the supporting text. Furthermore, it is noted that an aerial tree climbing survey was undertaken of only 6 of the 14 trees identified as having features capable of supporting bat roosts and that this survey was undertaken in June, which is very early in the season. It is during the autumn/winter months that bats select roosting sites suitable for hibernation. The surveys undertaken would therefore seem to be inadequate for assessment purposes. It should be noted that bats are relatively long-lived creatures, with some British bats known to have lived in excess of 30 years. Their roosting and foraging habitats are often used year after year and can be extremely important for a given local population. Although, the proposals include retention of many of the trees and the majority of existing hedgerows, the development of 2/3rd of the site with 250 houses, including development in close proximity to these trees and in areas of the site where high bat numbers were recorded, the construction process and the introduction of street/night lighting and other aspects of the human environment would, in all likelihood, prove unhealthy for the bat populations using and in all likelihood roosting within the site.

The application proposes biodiversity enhancements. However, the biodiversity enhancements and the strengthening and revitalisation of the green infrastructure across the site could equally be achieved within the context of the site in its current use. There is nothing to stop the restoration of the hedge field boundaries throughout the site, further trees and hedges being planted, and improved management of existing hedges around the site taking place. Again, the proposal to enhance biodiversity across the site is primarily offered as mitigation against the harm caused by the development. The development is not necessary to deliver biodiversity enhancements. Certainly, the proposals do not amount to exceptional circumstances and threats about the likely further neglect of the site in the absence of housing development do not change that fact.

It is clear that the proposal constitutes major development that would harm the landscape character of the AONB and, in the absence of any exceptional circumstances, should be refused planning permission in accordance with paragraph 127 of the NPPF.

It is acknowledged that at the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 states that 'Plans and decisions should apply a presumption in favour of sustainable development'. At paragraph 11d) it makes clear that for decision-taking this means 'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, 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 proposed⁶; 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 7 does state that, for applications involving the provision of housing, this includes situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

However, footnote 6 to paragraph 11d)i. states that the policies referred to are those in the Framework (rather than those in development plans) and include those relating to sites designated as an AONB.

The adverse impact of the proposed development on the AONB provides a clear reason for refusal in this case. As such, in accordance with recent case law and appeal decisions, the 'tilted balance' set out at paragraph 11 and referred to in the applicants planning statement does not apply. The fact that the Council cannot demonstrate a 5-year supply of deliverable housing sites is not therefore relevant in this case. Even if it were it seems clear that the adverse impacts of the development would clearly and significantly outweigh the benefits.

The case against the proposed development has been clearly made paying particular regard to the landscape character and ecology of this AONB site. The adverse impact of the development on my clients', [REDACTED] home on Harp Hill has also been highlighted. The loss of expansive views over the landscape character area, the loss of tranquillity, the noise from traffic generated by the development and light pollution from cars using the proposed site access which lies directly opposite Mr and Mrs Fry's house have all been cited.

This letter has not however touched on the impact of the traffic generated by the proposed development on the road network surrounding the site and on Harp Hill which would be the road most affected by the development. It is understood that [REDACTED] has commissioned highways transport consultants to review and comment on this aspect of the development separately. However, it seems quite clear that Harp Hill, which is narrow and subject to on road parking for a significant section of its lower slopes close to the junction with Hales/Priors and Hewlett Roads would be unable to accommodate the

likely traffic generated by the development. Minor alterations to the road alignment at the double roundabout would not, it is considered, sufficiently reduce the long traffic queues anticipated on Harp Hill post development. It seems more likely that at peak hours traffic in the immediate area and on Harp Hill will come to a grinding halt.

In conclusion, it is clear that the proposed development does not meet national policy in the form of the NPPF. It is contrary to the policies of the development plan, the JCS and recently adopted Cheltenham Plan which are most important in the determination of the application, namely those that seek to protect the natural beauty, character or special quality of the AONB and conserve the its landscape character. These policies are in accordance with national policy and considered to be up-to-date. There is a clear reason for refusing permission for the proposal on the grounds of harm caused to the AONB with no legitimate exceptional circumstances put forward by the applicant. In such circumstances, the fact that Cheltenham has a housing shortfall and is unable to demonstrate a 5 year supply of housing and that, as such, the housing policy is considered to be out-of-date does not, in this instance, trigger the 'tilted balance' as has been determined by recent planning case law. Claims to the contrary made by the applicant should be dismissed.

Yours sincerely
Diana Jones MRTPI
DJ Planning