

Statement of Case

Land at Oakley Farm, Cheltenham APP/B1605/W/21/3273053



Friends of Oakley Farm
Pasture Slopes



www.oakleyfarmpastures.wixsite.com/oakley

1 Introduction

- 1.1 This statement of case is submitted by the Friends of Oakley Farm Pasture Slopes (FOFPS). FOFPS is a local action group established in 2019 when Pegasus Group made an application on behalf of Robert Hitchins Limited for development at Oakley Farm, Cheltenham. We are a voice for our local community and our case aligns with the views of many local people who are against this inappropriate development on land that forms part of the Cotswolds Area of Outstanding Natural Beauty (AONB). We have been active in relation to other development proposals in the AONB in our area.
- 1.2 This appeal is brought by the appellant due to the local planning authority's failure to reach a determination in the allocated time. On 20th May 2021 the Cheltenham Borough Council (CBC) Planning Committee voted unanimously in support of the Planning Officer's putative reasons for refusal.
- 1.3 We agree with all CBC's putative reasons for refusal but will only add further detail and evidence in support of those where we consider it appropriate for our group to do so. We also offer additional refusal points for the inspector's consideration. Our evidence documents are listed at paragraph 7.
- 1.4 We have not engaged any independent experts to support our evidence, but we reserve the right to do so. Our evidence is based on accurate research and given in good faith. All photographs are presented for identification only and are best effort images.

2 Key considerations

- 2.1 The application is for development, which is inappropriate, in the Cotswolds AONB, a designated National Landscape. Its approval would not be in the public interest.

- 2.2 The Cheltenham Plan (CP) together with the Gloucester, Cheltenham, and Tewkesbury Joint Core Strategy (JCS) form the statutory Development Plan (DP) for Cheltenham and identify where development should be appropriately sited. Oakley Farm does not feature in the DP as an allocated site and is outside the Principle Urban Area (PUA) of Cheltenham.
- 2.3 The DP is structured around a plan-led system with strategic development identified in the JCS. The CP identifies those sites within the PUA, which together with supporting infrastructure, have been agreed for development. The DP, which inter alia protects natural and built heritage, has been adopted by representatives of the people of Cheltenham. It is the democratically chosen way forward and provides the overarching method for managing and guiding development through the Council's decisions on planning applications. Even when taking into account the significant shortfall in housing in Cheltenham, it is not in the public interest to develop this particular site.
- 2.4 We understand that Cheltenham cannot currently meet its 5-year housing land supply. However, this is a temporary shortage and is due, in the main, to strategic allocations being delayed. Strategic allocations should not be recovered, even partially, by non-strategic speculative proposals such as this, and most definitely not from designated valued landscapes such as this area of the Cotswolds AONB.
- 2.5 There is a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. In fulfilling this duty, consideration must be given to the Cotswolds Conservation Board's AONB Management Plan 2018-23 (CMP). This plan and its guidance are material considerations in determining planning applications in the AONB. Our group gives due regard to the policies of the CMP, drawing particular attention to policies CE1 and CE12.

- 2.6 Oakley Farm Pastures with its park-like setting forms an important part of the Cotswolds escarpment and is viewable from parts of the town, areas of the AONB such as Cleeve Common Site of Special Scientific Interest (SSSI), the Cotswolds Way National Walking Trail and other popular and well-used Public Rights of Way (PROWs). The CP determines that it is particularly important to protect the escarpment "as the dominant feature of Cheltenham's setting" (CP para. 8.3).
- 2.7 The development would harm the residential amenities of adjoining properties and the living conditions of people in the locality.
- 2.8 The documentation submitted at application does not prove exceptional circumstances and that the proposal is in the public interest.
- 2.9 This proposal will have a negative effect on Cheltenham's sustainable economic growth strategy which relates to tourism.
- 2.10 Consideration must be given to the history of Oakley Farm's AONB designation in 1966, and how in 1990, the boundary was reconfirmed and expanded to include the most westerly field of Oakley Farm, despite being bordered by residential areas and the huge and unsightly buildings of the old GCHQ site. Surrounding built environment does not therefore justify development in-filling in this case.
- 2.11 The location of the proposal will adversely affect the appreciation of, and create substantial harm to, the significance and setting of the Grade II listed heritage assets of Hewlett's Reservoir.

3 Evidence

- 3.1 Our evidence will focus on our main points for refusal which relate to landscape and visual, heritage, and residential amenity. We will include references to exceptional circumstances and planning policy.
- 3.2 In relation to landscape and visual amenity, our evidence will be supported by our group's "Oakley Farm Photographic Catalogue" and additional suggested viewpoints.
- 3.3 Our group will present other points for refusal which are in addition to those presented by CBC. We will evidence or show how the proposal conflicts with policies relating to residential amenity, the importance of Cheltenham's setting, and the Borough Council's aspirations for sustainable economic growth, which together add considerable weight when applying the planning balance.
- 3.4 We will refer to the lack of public support for this proposal as evidence and explain how, in our view, it is not in the public interest.
- 3.5 We will reserve the right to introduce witnesses, as necessary.

4 Main points for refusal

4.1 Landscape and AONB

- 4.1.1 Our group will offer challenges on Section 6 of the appellant's Environmental Statement.
- 4.1.2 Our case will include how the overall landscape and visual effects of the development will result in the significant loss of sloping pasture, which make a major contribution to the local landscape character and visual amenity, and how no amount of mitigation will either minimise this or prevent the loss of outlook that will be experienced by many from adjacent footpaths, open spaces, and roadways.
- 4.1.3 We will emphasise the importance of landscape character and sensitivity of this section of the Cotswolds AONB.

4.1.4 We will make reference to the letter of objection by DJ Planning on behalf of Cleevesyde, Harp Hill, the Landscape Character, Sensitivity and Capacity Assessment of Cotswold AONB commissioned by CBC (aka the Ryder Report), and CBC's Landscape Architect submission.

4.1.5 We will put forward a case to show how development of the "lower slopes" will in fact impact the whole site and that the lower slopes are not generally obscured as the appellant claims. We will also clarify that the appellant's repeated use of the terminology "lower slopes" relates to development of over three quarters of the site.

4.1.6 We will refute:

- the suggested advantages of the proposed new pedestrian links.
- the appellant's claim that the layout conserves the character and responds to the topography; and
- any claims that views will be opened up or that new views will be created.

4.1.7 Additionally, we will show that 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 and character, creating significant and demonstrable harm to the qualities and intrinsic beauty of this part of the AONB. We will demonstrate this by drawing attention to:

- current unimpeded long-distance and foreground views;
- the site's visibility from within and without the AONB;
- the prominence of the proposed development, access roads and footpaths;
- current views into and out of the AONB;
- viewpoints from local SSSI, public areas and PROWs and
- the tranquillity of the pastures.

supported as appropriate by relevant photographs.

4.2 Heritage

4.2.1 Our group will reference the Environmental Statement with particular emphasis on Section 8.

4.2.2 In terms of Heritage, we will express our concern that this proposal, sitting alongside the historically significant Grade II listed buildings and structures of Hewlett's Reservoir, will neither conserve nor enhance the significance of the heritage assets or their setting. This historic complex has been significant to the development of Cheltenham since the early 1800's and it is important to protect both it and its setting.

4.2.3 We will explain how the proposal will have an enclosing effect on what is currently an open character setting for the reservoir. We will show how the proposed development is contrary to the heritage policies of the DP and how it fails to accord with national policies in chapter 16 of the National Planning Policy Framework (NPPF).

4.2.4 We will show how NPPF para. 196 is a policy referred to in footnote 6 and that it is applicable in this case.

4.2.5 We will raise the issue of harm to non-designated heritage assets and why they are worthy of protection.

4.3 Exceptional Circumstances and Planning Policy

4.3.1 We will support CBC'S view, using our evidence, that there are no exceptional circumstances in support of this proposal.

4.3.2 We will refer to case law on the application of NPPF paras. 11, 170 and 172 and show how these are significant policies in this appeal. We will show how the appellant's proposal does not enhance or conserve the AONB and therefore provides a clear reason for disengaging the tilted balance. Even if the tilted balance were to be applied, when great weight is given to the harm that this proposal brings to the area's scenic beauty, the planning balance would fall to dismiss the appeal. We will also show how, when applying the second part of para. 172 (major development), the proposal will fail the exceptional circumstances and public interest test. In addition, we will show how the proposal conflicts with the policies of the JCS, CMP and CP.

4.3.3 As development proposals such as this are required to be consistent with the policies set out in the CMP, our group will support any arguments which cite a lack of accord with this plan.

5 Additional Refusal Reasons

5.1 Residential Amenity

5.1.1 The appellant through master planning has shown indicatively how up to 250 houses can be accommodated on this site. Of particular concern, as mentioned at para 6.146 of the planning officer's report to committee, will be the close proximity of development to properties on the eastern boundary. We will explain how these properties will be adversely and severely affected by this proposal.

5.1.2 We will outline the harmful effect on public areas at Brockweir Road and Oakley Grange.

5.2 Cheltenham's Setting

5.2.1 We will refer to Cheltenham's setting as described in the CP paras. 7.1 7.3 and 8.3 and will justify that Oakley Farm Pasture Slopes with its wonderful scenery forms an important part of this setting and the Cotswolds escarpment. Our points will include:

- Harm to the setting of Cheltenham including views into or out of areas of acknowledged importance. CP L1.

- How any development at the foot of the escarpment will impact Cheltenham's setting, one of the towns prime assets and a key factor in helping to achieve sustainable economic growth.

5.3 Sustainable Economic Growth – Tourism

5.3.1 Views of Oakley Farm fields are evident in photographs in the marketing material of "Cotswolds for Tourism" and evidenced on the Cotswolds Tourism Partnership web site. We will reference these documents which give an indication of the value attached to local tourism and show the importance given to views of the area. We will provide evidence to show that Harp Hill has historically been a viewing point of and across the AONB to the escarpment and the town for both locals and visitors.

5.3.2 It is clear when talking to visitors who walk around Oakley Farm Pasture Slopes that this beautiful area of Cheltenham is a considerable draw. Harp Hill is a gateway into the Cotswolds AONB and other designated and recreational areas such as Cleeve Common SSSI and the PROW network, which connect to the Cotswold Way National Trail. This road in itself offers extensive views of the AONB and Cheltenham town across the pastures. The ascent of Harp Hill provides views and a taste of "what is to come" to tourists as they make their way into the Cotswolds. As such, we will refer to the CP.

5.3.3 We will draw attention to CP para 3.36 in that the plan advises that a review of Cheltenham's tourism strategy is currently underway and that the Council will continue to support an enhanced role for tourism in driving the Borough's economy. Nothing should be done to jeopardise this strategy through the destruction of local Cotswolds AONB.

6 Public Interest

6.1 We will refer to CP pointing out that one important aspect of public interest these days is wellbeing. This has become a particularly salient issue in recent times due to the Covid-19 pandemic and during which exercise and enjoyment of the outdoors has been encouraged. Families take advantage of the open space, adjacent to and with a backdrop of Oakley Farm Pastures just off Brockweir Road, (Oakley Grange). More and more walkers and cyclists are being seen on Harp Hill and using public footpaths local to the area, encouraged by the draw of the countryside and wide views over open pastures. We will show that the appellant's claimed "new views" are neither new nor a substitute for the current panoramic vistas.

6.2 The Friends Group will reference:

- the genuine and compelling reasons submitted as objections (over 370 at time of writing) by the public, with not a single public representation in support of the proposal, and noting that the objections are from a cross section of the community; and
- the supportive representations recommending refusal from local organisations such as the CPRE, the Cheltenham Civic Society, and the Parish Council.

7 Conclusion

7.1 This proposal will harm the setting of Cheltenham when viewed from designated areas of acknowledged importance (*CP L1*) and this setting is a key factor in helping to achieve sustainable economic growth.

7.2 This proposal is not in the public interest.

7.3 Although Cheltenham does not have a five-year housing land supply, permanent destruction of the AONB is not the solution to what is only a temporary setback. There are alternative sites for example, to the west of Cheltenham.

- 7.4 Contrary to Policy SL1 of the CP, this proposed development will result in significant harm to the residential amenity of adjoining land users and their living conditions.
- 7.5 The application will cause harm to the significance and setting of heritage assets and severely damage the ability to appreciate those assets' significance without providing clear or convincing justification, contrary to NPPF chapter 16.
- 7.6 If this appeal were allowed, then Cheltenham would lose an area of historic and cherished landscape. The appellant's case relies on positioning the development on what they refer to as the "lower slopes" of the Oakley Farm fields. They claim this to be the least visually sensitive section, and that any landscape damage can be hidden behind tree mitigation. We will show that the former is not the case and that the tree mitigation is, amongst other things, inherently damaging to the area's character.
- 7.7 Post-development, all that would remain of the upper slopes would be a thin sliver of retained land, with its tarmac access roads, footpaths, and a band of screening trees, somewhat different to the appellant's claim of a large swathe of open pasture. This retained land will not compensate for the loss of this cherished area of the Cotswolds AONB.
- 7.8 This proposal is for inappropriate development in the Cotswolds AONB, which will have its severe and significant adverse effects on the natural and local environment made even worse by the proposed mitigation. 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, together with the less than substantial harm to the heritage assets previously highlighted, NPPF para. 172 and 196 independently provide a clear reason for refusing the proposed development.

7.9 This development proposal fails to comply with the DP and the relevant policies of the NPPF and therefore the appeal should be dismissed. In terms of conserving and enhancing the natural environment, as mentioned above a clear reason for refusal is provided and therefore NPPF 11(d)(i) is engaged, disengaging the “tilted balance”. The proposal also conflicts with policies SD4, SD6, SD7, SD8, SD10, SD14 and SP2 of the JCS, CP policies D1 and L1, and CMP policies CE1, CE3, CE10, CE11, CE12.

8 Table of Evidence Documents

8.1 In addition to documents and representations previously submitted in relation to the application, policy, case law and other documentation which may be referenced at the inquiry are listed in the table below. Our group reserves the right to refer to additional documents to those outlined below in preparation of our case and in support of application refusal.

No	Policy/Document
1	Countryside and Rights of Way Act 2000 Section 82.
2	National Planning Policy Framework (NPPF).
3	Planning Practice Guidance (PPG).
4	The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS).
5	The Cheltenham Plan 2020.
6	Cotswolds AONB Management Plan 2018-2023.
7	Cheltenham Borough Council Landscape Character, Sensitivity and Capacity Assessment of Cotswolds AONB.
8	FOFPS Photographic Catalogue, and other images as required. Evidence documents as required.
9	Charlton Kings Parish Council Report on 20/01069/OUT.

10	Appeal decisions referred to in our evidence to include APP/D3830/W/19/3231996, APP/D3830/W/19/3231997 Decision date 16 th December 2019 and APP/K1128/W/18/3208541.
11	Five Year Housing Land Supply Position Statement December 2019.
12	The Planning Inspectorate Report on the examination of the Cheltenham Plan (CP) 2011-2031.
13	Detail provided directly by the JCS team November 2020.
14	The Setting of Heritage Assets Historic Environment Good Practice Advice.
15	Report of Community Engagement and associated documentation.
16	Land Registry Search Documents-
17	Savills.co.uk/research.
18	The latest position on housing land supply and delivery – Howes Percival.
19	Cotswolds.com – Things to do, Cleeve Hill.
20	Letter dated 26 May 2021 from Cleeve Common Trust.
21	Mevagissey Parish Council R (on the application of) v Cornwall Council & Anor (2013).
22	Examination into the soundness of the Cheltenham Plan (CP) 2011-2031.
23	Monkhill Ltd v Secretary of State for Housing, Communities and Local Government (2019) EWHC 1993 (Admin) (24 July 2019) (51)(53)(60)(63).
24	R. (on the application of Monkhill Ltd) v Secretary of State for Housing, Communities and Local Government & Anor [2021] EWCA Civ 74 [32].
25	Statutory Designation AONB (Magic Map).
26	FOFPS View-point identification and route map.

27	Housing, Communities and Local Government Committee. Oral evidence: The future of the planning system in England, HC 858. Q140. 7 th Dec 2020.
28	A Green Future: Our 25 Year Plan to Improve the Environment. Forward from the Secretary of State.
29	Planning (Listed Buildings and Conservation Areas) Act 1990 s. 66(1).
30	Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council & Ors [2014] EWCA Civ 137 (18 February 2014).