

LPA Ref: 20/01069/OUT
PINS Ref: APP/B1605/W/21/3273053
10th August 2021 | DH | P21-0623PL

PLANNING PROOF OF EVIDENCE

SUMMARY

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SECTION 78 APPEAL BY ROBERT HITCHINS LIMITED

LAND AT OAKLEY FARM, CHELTENHAM

PROPOSAL:

DEVELOPMENT COMPRISING UP TO 250 RESIDENTIAL DWELLINGS, ASSOCIATED INFRASTRUCTURE, ANCILLARY FACILITIES, OPEN SPACE AND LANDSCAPING. DEMOLITION OF EXISTING BUILDINGS. CREATION OF NEW VEHICULAR ACCESS FROM HARP HILL.

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1. SUMMARY & CONCLUSIONS

1.1 This Proof of Evidence has been prepared on behalf of Robert Hitchins Limited (the Appellant). It relates to a Planning Appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of land at Oakley Farm, Cheltenham (the Appeal Site).

1.2 The Appeal has been lodged on the grounds of “non-determination.” It follows the failure of Cheltenham Borough Council (the Local Planning Authority) to determine an Outline Planning Application (LPA ref.20/01069/OUT) within the statutory 16 week period, for:-

1. “Development comprising up to 250 residential dwellings, associated infrastructure, ancillary facilities, open space and landscaping. Demolition of existing buildings. Creation of new vehicular access from Harp Hill.”

1.3 My evidence concentrates on the following issues:-

Whether the proposed development would be in an appropriate location that accords with the strategy for the distribution of development in Cheltenham Borough [PRfR 1]

Whether there are exceptional circumstances which justify major development in the AONB and whether it would be in the public interest [PRfR 2]

The Overall Planning Balance

1.4 My main findings can be summarised as follows:-

Issue 1 Whether the proposed development would be in an appropriate location that accords with the strategy for the distribution of development in Cheltenham Borough [PRfR 1]

1. The appeal proposals are in general accordance with the spatial strategy of the JCS which seeks to focus development at Cheltenham (Policies SP1 and SP2)
2. JCS Policy SP1 sets a minimum overall housing requirement of 35,175 dwellings (2011-2031), of which at least 10,917 are to be provided at Cheltenham. The appeal proposals would contribute towards meeting these requirements.
- 3.
4. JCS Strategic Objective 8 seeks to deliver at least, a sufficient number of market and affordable houses. Annual monitoring and the evidence of Mr Tiley demonstrates that the LPAs are failing to deliver the required number of new homes. Mr Tiley points to substantial under delivery.

5. Whilst the LPA objects to the appeal proposals on the grounds that it is development beyond the PUA, Policy SP2 anticipates that there will be a need for housing beyond the Cheltenham PUA.
6. I accept that the site is not allocated for housing and that there would be a partial conflict with the Development Plan (Policy SD10). However, Policy SD10 is out of date because of the housing land supply position (and for the other reasons I have identified). Any conflict with the policy should therefore be afforded only limited weight at most.
7. There are no adopted policies or designations that directly affect the site that would preclude its development for housing as a matter of principle (including AONB policy).
8. The site is in a sustainable location insofar as accessibility to shops services and employment is concerned.
9. The site is also well related to the pattern of development in the area in that it is surrounded by development on three sides and a reservoir on its fourth side. It reads as a logical infill site largely cut off from the wider countryside.

Issue 2 Whether there are exceptional circumstances which justify major development in the AONB and whether it would be in the public interest

10. The Appellant has demonstrated that there are exceptional circumstances which justify major development in the AONB, consistent with NPPF paragraph 177. Development would be emphatically in the public interest.
11. There is an undeniable need for the development at the National, JCS, Borough wide and local levels. The proposals would also have a positive impact on the local economy, would support the economic role of Cheltenham consistent with JCS Policy SP2(1) and would align with a number of national considerations.
12. The 5YRHLS position (2.2 years/a shortfall of -1856 homes) and the plan period shortfall (circa -3,500 homes) clearly illustrate the extent of the need and the lack of alternatives. There is no pipeline of development to redress that deficit and no imminent Local Plan in preparation.
13. There is also compelling evidence of a substantial unmet need for affordable housing (a shortfall of -1,160 affordable homes against an identified need for 1,386 between 2015/16 and 2020/21) and other alarming affordability indicators.
14. There is no evidence that there is sufficient scope to meet the identified need beyond the AONB or any other way. The LPA has not presented any evidence to suggest otherwise, which is unsurprising given the scale of the deficit. The available evidence all points to an absence of alternatives.
15. The neighbouring JCS authorities are also facing their own housing problems in terms of 5YRHLS and plan period shortfalls and are not therefore in a position to assist in any meaningful way.

16. Even if there was some scope beyond the AONB, this would come at a real cost in social, economic and environmental terms and would run counter to the JCS spatial strategy which seeks to focus development at Cheltenham to support its economic role and in the interests of sustainable transport.
17. It is not at all satisfactory and nor would it be a proper application of national policy to suggest that the need for development should be put off until there has been a review of the JCS. National guidance on when a refusal on grounds of prematurity are plainly not met. No weight can be given to the JCS Review at this stage. Other appeal decisions support my approach.
18. Whilst the proposals are “major development” in NPPF terms, Mr Harris demonstrates that the harm to the AONB would not exceed a minor or moderate adverse impact and the impact on heritage assets would be broadly neutral.
19. Whilst great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB that is not to say that any such harm, must always attract overriding weight in the planning balance.
20. Other appeal decisions and case law demonstrate that “major development” can take place in the AONB without causing significant harm to the AONB. It is a matter of judgement for the decision maker when weighing up the various considerations.
21. I consider that the need for the development in light of national considerations, lack of scope to meet the need elsewhere, the substantial benefits and the fact that the proposals would not cause any significant harm to the aim of conserving and enhancing the AONB’s landscape or natural beauty all contribute to the exceptional circumstances and development that is clearly in the public interest.

The Overall Planning Balance

22. Although there would be a partial conflict with the Development Plan the proposals would still be in in general accordance with the policy objectives and spatial strategy of the JCS.
23. In this case there are exceptional circumstances which justify major development in the AONB and the proposals would be in the public interest consistent with NPPF paragraph 177.
24. The less than substantial harm (at the lowermost end of the spectrum) to the heritage significance of two Listed Reservoirs and the Pavilion would be outweighed by the public benefits in accordance with NPPF paragraph 202.
25. It follows that the tilted balance is not dis-applied in this case.
26. The proposals would deliver a range of social, economic and environmental **benefits** which can be afforded varying levels of weight as identified below:-
 - a. Provision of Open Market Housing – Substantial
 - b. Provision of Affordable Housing – Substantial

- c. Expenditure on construction/investment – Significant
- d. Creation of construction jobs - Moderate
- e. Providing homes for economically active people to support the economic role of Cheltenham – Moderate
- f. Financial contributions towards off site infrastructure – Limited
- g. New footpath links & new public access to land in the AONB – Moderate
- h. GI and biodiversity enhancements – Limited/Moderate
- i. Better appreciation of the heritage significance of the following assets:-
 - i. The Listed Pavilion – Moderate/Significant
 - ii. The listed enclosing works – Moderate/Significant
 - iii. The Custodians Lodge (non designated) – Limited/Moderate
 - iv. Reservoir #3 (non designated) – Very Limited

27. The **adverse impacts** have been identified and these should also be afforded varying degrees of weight as follows:

- a. Partial conflict with the Development Plan – Limited
- b. Impact on the landscape and scenic beauty of the AONB (including loss of countryside) – Significant
- c. Less than substantial harm (at the lowermost end of the spectrum) to the significance of the following designated heritage assets:-
 - i. Listed Reservoir #1 - Moderate
 - ii. Listed Reservoir #2 - Moderate
 - iii. The Listed Pavilion - Moderate
- d. Effect on significance of non designated heritage assets:-
 - i. Reservoir #3 – Very Limited
 - ii. Loss of a small area of ridge and furrow Very Limited
- e. A marginal increase in traffic on the existing network – Limited

28. All other identified impacts can be mitigated through reserved matter applications planning conditions or planning obligations.

29. Overall, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits and this is a material consideration that outweighs the conflict with the Development Plan.

30. As such the proposals represent sustainable development in the context of NPPF paragraph 11d and the appeal should be allowed.

Concluding Comments

1.5 Having undertaken a planning balance in the way that I have outlined, I reach the conclusion that the proposals represent a suitable and sustainable form of development in this location and that there are compelling reasons that justify the grant of planning permission.

In view of the foregoing, the Inspector is respectfully requested to uphold this appeal and to grant outline planning permission, subject to any necessary conditions and planning obligations.