

Proof of evidence:  
Planning

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



Friends of Oakley Farm  
Pasture Slopes



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

## 1 **Declaration**

- 1.1 This document has been produced by the Friends of Oakley Farm Pasture Slopes. We have no professional training or qualifications in the topic under study. However, we have carried out detailed and extensive research when compiling this evidence.

## 2 **Opening**

- 2.1 This appeal has been lodged on the grounds of non-determination for: “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”. The application is a speculative planning proposal in an Area of Outstanding Natural Beauty (AONB), a designated National Landscape. Its approval would not be in the public interest and in our view, there are no exceptional circumstances applicable in this case.

## 3 **Plan-led system**

- 3.1 The planning system should be genuinely plan-led and contribute to the achievement of sustainable development. The recently adopted Cheltenham Plan (CP) together with the Gloucester, Cheltenham, and Tewkesbury Joint Core Strategy (JCS) form the statutory Development Plan (DP) for Cheltenham and the surrounding area and identify where development should be sustainably and appropriately sited.
- 3.2 The DP 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. The CP which protects the borough’s natural and built heritage, has been adopted by councillors representing 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.

- 3.3 The JCS sets out the long-term vision and objectives for the wider area together with strategic policies for shaping new development and identifying locations for new development up to 2031.
- 3.4 Strategic development sites are identified in the JCS and the CP generally identifies those sites within the Principle Urban Area, which together with supporting infrastructure, have been selected for development.
- 3.5 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. (*National Planning Policy Framework (NPPF), para. 2*)
- 3.6 The JCS adopted in 2017 identified, inter alia, the strategic sites within the Cheltenham and Tewkesbury areas that would meet the housing needs of Cheltenham borough. (JCS SP2)

#### 4 **5 Year Housing Land Supply**

- 4.1 Cheltenham, like many other planning authorities, is struggling to meet its 5-year housing land supply (5YHLS), although unlike many other authorities this is not due to housing land not having been identified. The shortfall in Cheltenham’s 5YHLS is primarily the result of delayed strategic developments in northwest Cheltenham, set back by delays to improvements to the M5’s J10 and the associated new highways infrastructure.
- 4.2 These are strategic delivery delays, that are acknowledged, and which are under JCS review. Short term strategic delays do not warrant recovery by inappropriate and non-policy compliant proposals, such as this speculative application, and especially not from proposals in designated landscapes, where the long-term result would be significantly harmful. Planning Practice Guidance supports this view:<sup>1</sup> “[AONBs]...are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas.” The Cotswolds Management Board follows a similar course at policy CE12 with “...development in the Cotswolds should be based on robust evidence of local need arising from within the AONB.”
- 4.3 The inspector who reviewed the recently adopted CP noted Cheltenham’s development requirement shortfall and commented that “In the event of a failure to deliver the five-year housing land requirement arising from policies of the JCS, it is for the review of the JCS to determine the up to date requirement for housing and how it should be met. In these circumstances it is not a matter for the CP to demonstrate the provision of a five-year supply of housing land.” The inspector was also conscious of the NPPF’s policy towards significantly boosting the housing supply. Once more she was in agreement with the CP in that it was compliant in this regard.<sup>2</sup>

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<sup>1</sup> Planning Practice Guidance - Natural Environment: Paragraph 041, Reference ID: 8-041-20190721

<sup>2</sup> Report on the Examination of the Cheltenham Plan 2011-2031. [53] Inspector Wendy Burden.

## 5 **Plan-led development and vision**

5.1 Cheltenham's plan for economic growth includes the plan-led development known as the West Cheltenham or the Cyber Central Garden Community or the Golden Valley Development.<sup>3</sup> The vision of the garden community on these 200 hectares of land is to combine business, residential and leisure by providing a central and sustainable location for homes and employment on the western side of the town. This plan-led vision is moving swiftly forward, it is a core area of focus for sustainable development in Cheltenham and is a main thrust of Cheltenham's future economy. The project forecasts 12,000 new employment opportunities and now has plans for around 3,700 new homes. This plan-led development on the west side of Cheltenham, close to major transport hubs, is in a fully sustainable location and with the potential for future expansion. Construction is forecast to begin 2023/24.

5.2 With the above in mind, it would seem contradictory, counterproductive and significantly less sustainable to incorporate a major development within a designated landscape over four miles away, on the opposite side of town to where the main thrust of employment and opportunities will arise. It would not benefit existing road users, would impact air quality and offer no environmentally attractive advantages. The public would not benefit from the permanent loss of a treasured nationally designated and protected landscape or by expanding the urban edge into the AONB.

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<sup>3</sup> The Magazine of the Golden Valley Development.

## 6 **Public interest and exceptional circumstances**

- 6.1 NPPF para. 177 requires that any major development proposals within an AONB must demonstrate that exceptional circumstances apply and that it would be in the public interest.
- 6.2 Phrases in the appellant’s draft Statement of Common Ground and Statement of Case, stating “It is agreed that neither national policy nor local planning policies preclude major development in the AONB” and “Neither national guidance nor the adopted Development Plan policies preclude or place an embargo on further housing in the AONB” show an interesting reliance on policies intended to protect the AONB, but which are not categoric and are caveated with subjective exceptions.
- 6.3 NPPF para. 177 is caveated in this way: “In considering major development in AONBs, planning permission should be refused except in exceptional circumstances and where it can be demonstrated that the development is in the public interest”.
- 6.4 In the appellant’s Statement of Case, under “Main Issues”, issue 3 addresses whether there are exceptional circumstances and public interest points which justify major development within the AONB. We do not consider that any of these points have any substance and have countered them in our landscape and heritage proofs and at paragraphs 6.5 to 6.14 which follow.

### Public Interest

- 6.5 Para. 1.4 of the CP outlines how the development plan 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.

6.6 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 to secure social well-being. The council will therefore seek to continue the protection of the town’s setting and encourage its future enhancement through sensitively designed/located development.<sup>4</sup> We consider that these achievable attributes are important and in the public interest.

6.7 The protection and enhancement of the environment is considered essential in helping to improve the health and well-being of Cheltenham, and the well-being of the Borough’s residents is a key consideration in all policymaking and no less in the determination of planning applications.<sup>5</sup>

6.8 Supporting the well-being of the local population, which is clearly in the public interest, 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 at Oakley Grange take advantage of the open space, adjacent to and with a backdrop of Oakley Farm Pastures just off Brockweir Road. Increasing numbers of walkers and cyclists make their way up and down Harp Hill and people use public footpaths local to the area. All are drawn to the area for its countryside feel and to enjoy the long distance and wide, open views across Oakley Farm Pastures. A new housing estate with its associated traffic and infrastructure at the proposed location will do nothing to sustain these activities.

6.9 An application which is non-compliant with a development plan may be considered as a factor not in the public interest.<sup>6</sup>

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<sup>4</sup> Cheltenham Plan, para. 7.4

<sup>5</sup> Cheltenham Plan, para. 14.1

<sup>6</sup> Appeal decisions APP/D3830/W/19/3231996 and APP/D3830/W/19/3231997 [142]

6.10 Local people who appreciate this area of Cheltenham come from different parts of the town, as can be seen from the range of addresses on objections. Some are from those recognised as more prosperous areas, and some are from those less so. They are from all walks of life. Many enjoy the attractions of easily accessible countryside in their time off from work, others in their retirement, and some because, when money is short and life is hard, it is their only “free” pleasure. No one living in Cheltenham has formally written to CBC supporting this development even though, like many other areas of the UK, there is an identified need for housing in this town. Quality of life and enjoyment of the natural environment are clearly in the public interest.

6.11 The proposal for up to 250 houses on the site, in any form, will have a detrimental effect on the residential amenity of many residents local to Oakley Farm. This generates a public interest consideration.

6.12 Evidence proving that this proposal is not in the public interest is further reinforced by:

- 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 by noting that the objections are from a cross section of the community;
- the representations recommending refusal from local organisations such as the CPRE, the Cheltenham Civic Society, and the Parish Council; and
- the unanimous support for the Planning Officer’s putative reasons for refusal by the recently elected CBC planning committee.

## Exceptional Circumstances

6.13 In the appellant's documentation supporting their case we can find no compelling facts in support of exceptional circumstances which favour this major development to the extent that they outweigh the significantly harmful impact of the proposal on the conservation and enhancement of the landscape and scenic beauty of the AONB. They consider that a lack of a 5YHLS is an exceptional circumstance. Whilst it may be desirable that Cheltenham provides a 5YHLS, it is not of national or local importance that Oakley Farm is developed in order to contribute to this. Any assessment of exceptional circumstances must not only be carried out for a specific development proposal, but its basis and method explained, and its conclusions clearly demonstrated. Furthermore, even if there was a proven exceptional need for housing in the area, this would not necessarily equate to exceptional circumstances for this particular land to be developed: alternative sites will become and are available, and the significant detrimental effect and permanent damage that this proposal will have on the landscape at Oakley Farm will not be in the public interest. There is no doubt that 250 houses would be a benefit to Cheltenham's housing requirement, but this is an ordinary or expected benefit and does not warrant an exceptional classification. The appellant has not made a distinction between a pressing case and a genuinely exceptional need in the sense of unusual or rare or even established anything untypical.<sup>7</sup> Cheltenham's 5YHLS shortfall is unremarkable nationally, where approximately 30% of local authorities are in a similar position.<sup>8</sup>

6.14 The above reasons, together with the details in our Landscape & Visual and Heritage proofs, show that the development proposal fails the high bar test of NPPF para. 177, in that there are no exceptional circumstances and public interest benefits to this major development proposal.

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<sup>7</sup> Mevagissey Parish Council, R (on the application of) V Cornwall Council & anor. [52 i]

<sup>8</sup> [https://www.savills.co.uk/research\\_articles/229130/309483-0](https://www.savills.co.uk/research_articles/229130/309483-0)

## 7 **Sustainability**

- 7.1 The purpose of the planning system is to contribute to the achievement of sustainable development.<sup>9</sup> Of the three overarching objectives of NPPF para. 8, the social objective is particularly relevant in this case. Cheltenham, as agreed, is in need of more homes. NPPF para. 72 is clear that the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns. These should be supported by the necessary infrastructure and facilities and ensure that their size and location will support a sustainable community with sufficient access to services and employment opportunities within the development itself.
- 7.2 CBC are endeavouring to supply large numbers of homes and are working seriously within the spirit of the social objective to meet the needs of present and future generations. The Cyber Central Garden Community development in the West of Cheltenham takes sustainability to the correct level. This development will deliver thousands of homes and seriously endeavour to meet the needs of present and future generations. It will provide sustainable transport, facilities, access to services and employment within the development itself. This is a true interpretation of “sustainable” and is the way forward.
- 7.3 Furthermore, successful development depends on a movement network that makes connections to destinations, places and communities both within the site and beyond its boundaries. Development to the west of Cheltenham provides for this criterion; Oakley Farm does not. The Oakley Farm scheme will not function well due to its location and associated increased traffic congestion. It will not add to the quality of the area and its topography will demand the use of motor vehicles to a large extent which makes it unsustainable.

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<sup>9</sup> NPPF para. 7

7.4 CBC worked diligently for 7 years to produce a local plan which was adopted in 2020. They have a good, clear, signed off strategy providing for sustainable development, sustainable economic growth, employment, tourism, landscape protection etc. The **west** of Cheltenham is ear-marked for sustainable commercial and residential development whereas the area to the **east** is important for its landscape and to tourism and forms a good part of Cheltenham's attractive setting and recreational area. This detailed sustainable local plan should not be undermined by the destruction and permanent loss of areas of nationally designated landscape, or by inappropriate major development outside of the CP's agreed parameters.

## 8 **Sustainable Economic Growth**

- 8.1 Whilst we agree that the proposal for up to 250 houses would make a contribution to and have a positive impact on Cheltenham's housing land supply, the proposal will have limited effect on the local economy.
- 8.2 Amongst other matters, NPPF para. 177 refers to major development in the AONB and states: "Consideration of such applications should include an assessment of ... the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy".
- 8.3 The appellant has put forward in their Environmental Statement, the view that benefits to the economy will occur during the construction period with employment opportunities and expenditure on local goods and service. Anecdotal evidence suggests that many construction jobs are likely to be filled by out of area contractors as opposed to local people, which has happened on other local development sites. The construction phase will be relatively short, so this benefit is clearly not sustainable.
- 8.4 The vast majority of people relocate within the Gloucestershire area,<sup>10</sup> resulting in only a transfer of economic benefits from one location in Gloucestershire to another in most cases. Furthermore, the likelihood is that many newcomers will take advantage of new employment opportunities in the west of Cheltenham, resulting in unsustainable travel from one side of the town to another should they decide to live in Oakley.
- 8.5 Any generation of additional household expenditure in the local area will be minimal as few services exist. In the main, shopping for the family or with very young children will require the use of a car due to the topography of the site. Distances to, for example, Charlton Kings and bus stops are off-putting for many but perhaps especially the elderly or infirm. NPPF para. 105 states that significant development should be focussed on locations which are or can be made sustainable through limiting the need to travel and offering a choice of transport modes.

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<sup>10</sup> Gloucestershire local Housing Needs assessment 2019, Fig.10 and para. 2.24.

- 8.6 Tourism is important to the economy of Cheltenham and provides important employment opportunities for the local workforce. A review of Cheltenham’s tourism strategy is currently underway, and the Council will continue to support an enhanced role for tourism in driving the Borough’s economy. Given the location of Cheltenham on the edge of the Cotswolds, it is likely that future approaches will aim to capitalise on the town’s role as a gateway to the Cotswolds as well as being a leisure and tourist destination in its own right.<sup>11</sup>
- 8.7 This section of the Cotswolds AONB, which includes Cleeve Common, a Site of Special Scientific Interest (SSSI), and the Cotswold Way National Trail, is a considerable draw to tourists visiting the area and Cheltenham town itself. Annually, over 100,000 people visit Cleeve Common to walk, run, play golf, picnic, cycle, toboggan, ride horses, fly kites and participate in other outdoor pursuits.<sup>12</sup> Here, visitors can admire Cheltenham’s setting from above the town and also take in some of the best views across the Cotswolds and the Severn Vale. Oakley Farm, with its park-like setting forms an integral part of these views.
- 8.8 One of the popular routes to Cleeve Common, for visitors and local residents, is via Harp Hill (where the proposed access to the development is to be situated). Harp Hill has for centuries allowed superb open views of the escarpment over Oakley Farm Pasture Slopes, offering “a taste of what is to come” as pedestrians and vehicles make their way further into the Cotswolds. The current landowner’s policy to allow the hedges and shrubbery to grow unmanaged, not only along Harp Hill, but along PROW 86 has curbed this enjoyment considerably.
- 8.9 This proposal will harm the setting of Cheltenham when viewed from designated areas of acknowledged importance and this “setting is a key factor in helping to achieve sustainable economic growth.”<sup>13</sup>

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<sup>11</sup> Cheltenham Plan, 3.36

<sup>12</sup> Correspondence from Cleeve Common Trust

<sup>13</sup> Extract from Cheltenham Plan, 7.4

## 9 **The 25 Year Environment Plan**

- 9.1 In this plan the Government acknowledges how much the countryside and scenery mean to people, stating that nearly 60% of adults surveyed in 2015 said these were what made them most proud of Britain. The document goes on to advise that “from the confirmation of the first National Park in the Peak District in 1951, to England’s youngest National Park, the South Downs, in 2010, the creation of designated landscapes – which also include Areas of Outstanding Natural Beauty (AONBs) – has been among the outstanding environmental achievements of the past 100 years.” Clearly the intention of the Environmental Plan is not to degrade this achievement but to ensure that AONB’s continue to be conserved and enhanced and that planning policies and decisions should contribute to this aim.
- 9.2 Importantly, the plan advises that plans should distinguish between the hierarchy of international, national and locally designated sites and allocate land with the least environmental value. Oakley Farm sits entirely within the nationally designated AONB where the scale and extent of development should be limited<sup>14</sup> and should certainly not be of the major category. Alternative sites of less significance are or will be available for development and short term fixes at the expense of AONB destruction do not align with the aspirations of the 25 Year Environmental Plan.

## 10 **Conclusion**

- 10.1 It is our opinion that the significant harms that would be caused by this development proposal taken as a whole, far outweigh the limited benefits that it offers. The location of the site is unsuitable for this development. It is not sympathetic to the amenity of local residents, to the neighbouring heritage assets or to local landscape and its character. It will not integrate either visually or functionally with its surroundings.
- 10.2 Even where there is an increased impetus to deliver housing, this cannot and should not come at the expense of particularly significant and irreversible harm to the AONB.

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<sup>14</sup> NPPF para. 176

- 10.3 This proposal for major development within the AONB fails to demonstrate exceptional circumstances and is not in the public interest. It therefore fails to comply with NPPF para. 177 which sets a high bar to overcome for development approval. It is also clear that the appellant has failed to demonstrate how their scheme would conserve and enhance the AONB as required by NPPF para. 176.
- 10.4 This development proposal fails NPPF paras. 176 and 177 in all regards and therefore there is a clear reason for refusal which disengages the tilted balance at NPPF para. 11d.<sup>15</sup>
- 10.5 In failing to contribute to or enhance the environment and local landscape by protecting and enhancing this valued landscape, the appellants have failed to comply with NPPF para. 174.
- 10.6 In DP terms the proposal fails JCS Policy SP2, SD6, SD7, SD10, SD14, Cheltenham Local Plan Policy L1 & ch. 8.
- 10.7 We have demonstrated that this proposal fails to accord with the overarching objectives at NPPF para. 8 of achieving sustainable development.
- 10.8 The inspector is respectfully asked to dismiss the appeal.

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<sup>15</sup> Monkhill Ltd v Secretary of State for Housing, Communities And Local Government [2019] EWHC 1993 (Admin) (24 July 2019) [51] [53] [60] [63]; NPPF 2019 para. 172 replaced in NPPF 2021 by paras. 176 & 177