

**LPA Ref: 20/01069/OUT**

**PINS Ref: APP/B1605/W/21/3273053**

**LAND AT OAKLEY FARM, CHELTENHAM**

---

**APPEARANCES ON BEHALF OF THE APPELLANT**

---

**COUNSEL:**

Paul G Tucker QC

Stephanie Hall

**INSTRUCTED BY:**

Pegasus Group

**WITNESSES:**

Landscape: Paul Harris BA, DIP LA, CMLI

Heritage: Gail Stoten BA (Hons) MCIfA FSA

Transport: Graham Eves BSc CEng MICE MCIHT

Housing Land Supply: Neil Tiley BSc (Hons) Assoc RTPI

Education: Neil Tiley BSc (Hons) Assoc RTPI

Affordable Housing: James Stacey BA (Hons) DipTP MRTPI

Planning: David Hutchison BSC (Hons) DipTP MRTPI

**LAND AT OAKLEY FARM, CHELTENHAM**

---

**OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT**

---

1. This appeal seeks outline planning permission for up to 250 new homes, together with open space and significant landscaping on land immediately to the east of Cheltenham and surrounded on three and a half sides by existing residential development.
2. The Council's overall plan for development is rightly to focus growth on the urban area of Cheltenham and the appeal scheme would do just that. The Appellant proposes an extension to the urban area of Cheltenham into the Site which will be related well to the existing urban area and which will leave the more elevated southern 1/3<sup>rd</sup> of the site essentially undeveloped. The Appeal site formally sits within the AONB, albeit, it shows few of the defining characteristics of the wider designation, and is instead heavily influenced by the adjacent built form, and is to a large degree separated from the wider AONB by newly constructed housing to the NE and the engineered structure of the reservoir which lies beyond a substantial wall to the southern part of the eastern boundary.

3. Key to the determination of this appeal is the assessment of consequences flowing from the Council's acknowledged shortfall in housing supply both in terms of an inability to demonstrate a five year supply and its inability to demonstrate a sufficient supply of sites to meet the minimum requirement within the development plan for the plan period. A significant shortfall has arisen, primarily as a result of the Joint Core Strategy ("JCS") strategic allocations failing to progress anything like as quickly as had been hoped<sup>1</sup>. The Appellant estimates the current supply at 1.6 years – a serious and substantial shortfall on any measure. Even on the Council's own optimistic assessment, the supply is only 3.9 years; well short of the requirement.
4. Importantly, the Council currently has no plan in place for making good the shortfall. All hopes appear to be pinned on the future JCS review which is currently embryonic, and the Council agrees that no weight can be placed on it<sup>2</sup>. Mr Instone tells us that the Council's will need to consider a range of unpalatable options – including GB release and even look to the AONB. However, as the experience of the adopted JCS proved, plan-led wheels do not turn quickly in Gloucestershire and it took years for the last JCS to be adopted, and that with an acknowledged deficit in Tewksbury and Gloucester City. The Inspector only concluded that plan to be sound upon the basis of a commitment to an immediate review to meet those needs – which has never happened. As time has passed the idea of a partial review was shelved and now all three Council's will fail to meet their plan requirements. The Cheltenham Plan was a part 2 and explicitly was examined on the basis of delivering the part 1 cunning plan and not remedying what surely must have been an evident delay in the delivery of strategic sites. Indeed the Inspector expressly disavowed assessing a 5YHLS since this was a part 2 plan.
5. The JCS review is now the policy panacea to the failure to deliver housing needs in this county. However its progress too has been slow – indeed even between exchange of evidence

---

<sup>1</sup> Planning SOCG para 8.17

<sup>2</sup> Planning SOCG para 7.15

and the start of the inquiry its first faltering steps have been delayed until next year before its first formal draft is published<sup>3</sup>.

6. The Council is therefore wholly reliant upon windfall sites in order to make any headway into reducing the shortfall and suitable sites for housing should be sought with great enthusiasm. It is therefore a hollow cry on the part of Mr Instone to allege that there is harm to the plan led system – when the reason why this scheme is being promoted is because of the failure of the plan led system. Rightly there is no claim of prematurity and it is nothing more than a ‘straw man’ to contend that harm arises to the plan led system if a scheme of this nature is consented – it doesn’t. To the contrary, real harm arises from delaying meeting real needs which exist now.
7. Thus, the Appeal proposals would self-evidently provide a considerable contribution to this supply against the background of both local and national policy which seek to significantly boost the supply of housing.
8. The appeal scheme will also provide much needed affordable dwellings by generating 100 affordable homes; consistent with the 40% policy requirement. This too needs to be seen in the context of a chronic under-delivery of affordable units. To say that other developments in the area have not generated sufficient affordable homes is putting it mildly; the Council has recently delivered only 11% of its target<sup>4</sup>. The 100 affordable homes that the appeal proposal would provide represents the equivalent of 44% of the total number of affordable homes delivered across the entire Borough since the SHMA base period in 2015/16. Rightly this need is described as ‘acute’ in the SOCG and it remains baffling as to why on earth the LPA are fighting an evidential rear guard action in response to Mr Stacey’s evidence.

---

<sup>3</sup> Planning SoCG para 7.14

<sup>4</sup> JS POE fig 5.2 p.18

9. Cheltenham as a town and a borough is substantially constrained by AONB and Green Belt designations and wholly unconstrained sites are rare. The Council cannot sensibly object to the principle of extending the urban area of Cheltenham into greenfield sites as the obvious solution to meeting needs in the most sustainable manner possible; Policy SP2 already recognise a need in principle to extend existing settlements into the surrounding countryside in order to accommodate the minimum identified housing requirement during the plan period. The defined PUA is therefore not sacrosanct, even on the Council's approach.
10. The Council relies upon policy SD10, however, SD10 is restrictive of all development unless it is allocated, on PDL or in other very narrow circumstances. In effect, all major housing schemes which are not allocated or on brownfield sites within the PUA are prevented by SD10. It is agreed in the planning SOCG<sup>5</sup> that SD10 is out of date and should be afforded reduced weight, but even if this policy was to be wrongly afforded something approaching full weight, the Council cannot begin to make good its shortfall and such a position is entirely at odds with Government policy. In light of the chronic under supply of housing, it is exactly the sort of rigid local policy which ought to be afforded much reduced weight in order to give effect to the broader national policy aim of boosting the supply of homes.
11. The Site, whilst being within the AONB, is relatively unconstrained otherwise and is a natural place for an extension to the built-up area of Cheltenham, being surrounded on three and a half sides by residential development already including the now re-developed ex-GCHQ site.
12. The impact on the AONB of the proposals needs to be seen in light of the above and the chronic need for both market and affordable housing in this area. There is both a national and local housing crisis and the Council and its neighbours are currently failing to plan to meet this need. The circumstances are exceptional for the purposes of NPPF 177 and as other

---

<sup>5</sup> Planning SoCG para 8.38

inspectors have recognised, there is a “clear and pressing need” to make good the shortfall and the Council is reliant upon windfalls to do so.

13. The extent of impact will be explored in evidence, but it is firmly submitted that whilst there will be loss of part of a parcel of undeveloped land, the particular circumstances of this parcel of land are more than a little out of the ordinary in terms of its close relationship to the urban area, for all that the contrary position is argued multiple different ways by the LPA and the CCB. In truth, there is a demonstrable lack of significant harm caused by the proposals and neither AONB policies nor heritage policies provide a clear reason to refuse permission;

- a. There is a clear public interest in granting consent for market and affordable dwellings in Cheltenham and nationally;
- b. The need for such development is pressing;
- c. There is no current plan in place to meet the need in any other way and no evidence as to how the need is to be met other than by development of sites such as this; and
- d. The effects of the scheme are very modest, particularly when mitigation is taken into account.

14. The approach of the Appellant has been to embed an appreciation for the more sensitive areas of the site into the proposals from the start. The result is a scheme which respects and preserves the higher slopes of the Site which have a greater connection to the wider AONB whilst allowing the less sensitive areas to come forward for much needed development. The upper slope will be retain its open and semi-rural character and the overall result is only minor-moderate landscape and visual harm. Indeed the appreciation of the wider AONB will be facilitated by permitting public access into the upper part of the site, allowing clear views of the dramatic higher parts of the scarp slope, whilst mitigating impacts of development on the lower slopes. In addition recreation opportunities will be facilitated on the doorstep of existing and future residents and new views of the pavilion,

the reservoir and the wall will be meaningfully provided to the public. The benefits of the proposals are obvious, whilst harms are minimised.

15. The identified heritage harm is also minor at most, being assessed as less than substantial and towards the lowermost end of the spectrum, again moderated by benefits which will be provided in creating publicly accessible views into the reservoir complex and towards the pavilion. No direct harm will be caused to heritage assets and the indirect harm by development within the setting of the reservoirs and pavilion is minor in nature, with some heritage benefits arising to the latter. As to the loss of some areas of ridge and furrow (NB not a pRfR)– with respect it is a ubiquitous non-designated asset, part of which will actually be preserved, nonetheless, as with the limited impacts on the designated assets – the impacts to significance will be substantially outweighed by the benefits.
16. In terms of the County Council’s highways objection, once the scheme is seen in its proper context as a replacement site in the Council’s growth projections given the failure of the strategic allocations to deliver rather than a site being delivered in addition to others, the impact is assessed as “marginal” and nowhere near severe as alleged by the County Council.
17. Finally, there is a matter of disagreement between the Appellant and the County Council as LEA as to the scale of education contributions required as part of the planning obligation. Mr Tiley’s evidence explains why the County’s arguments have already been determined in the Appellant’s favour by Inspector Clark at the Coombe Hill appeal<sup>6</sup>.
18. Overall, the issues in this case are clear – the grant of permission would assist with the delivery of much needed housing adjacent to the built up area of Cheltenham; a core aim of the local plan which is currently failing. Housing on adjacent sites is anticipated by the plan

---

<sup>6</sup> Core Document K2

and SD10 cannot sensibly be the guide to determining which sites are able to come forward if the scale of housing shortfall is to be addressed. It is the Appellant's firm submission that in respect of highways, landscape and heritage that there is no proper basis to withhold consent.

19. Accordingly, in due course, the Appellant will invite the Inspector to allow the appeal.

*7<sup>th</sup> September 2021*

Kings Chambers  
Manchester, Leeds, Birmingham

*Paul G Tucker QC*  
*Stephanie Hall*