

Closing Submissions

Oakley Farm Planning Appeal 3273053



View from Harp Hill SE corner

Friends of Oakley Farm
Pasture Slopes



www.oakleyfarmpastures.wixsite.com/oakley

Introduction

1. During the inquiry we heard from the appellant their reasoning as to why this speculative development proposal in a nationally designated landscape is sustainable, in the public interest and warrants a classification of exceptional circumstances. Their case is firmly predicated on Cheltenham Borough Council's (CBC) inability to provide a 5-year housing land supply. Nevertheless, the site is located outside of the Principle Urban Area (PUA) in a rural location and within an Area of Outstanding Natural Beauty (AONB). The proposal:
 - breaches and undermines the central tenet of a genuinely planned system, the supporting policies of the Development Plan (DP) and its spatial strategy;
 - is contrary to the guidance in the Cotswold Conservation Board (CCB) Management Plan (MP); and
 - does not accord with the overriding National Planning Policy Framework (NPPF) policies on achieving sustainable development and the protection, conservation and enhancement of the natural environment.
2. Delays to the DP's strategic allocations are at the heart of Cheltenham's temporary shortfall in delivering a 5YHLS. This has primarily been due to M5 J10 improvement scheme delays which have now been overcome.
3. Development at Oakley Farm would not align with the spatial strategy of the DP. This sets out the Borough's aspirations that aim both to conserve what is valued and cherished within Cheltenham and encourage development in the sustainable areas the Council wishes to promote in the public interest.

Planning Policy and Guidance

4. DP policy SP1¹ calls for the provision of housing within Cheltenham's existing urban areas or urban extensions. Oakley farm is within neither Cheltenham's existing PUA or one of its urban extensions. The proposal is therefore not in a location identified in SP1 and is thus at odds with this policy.
5. The appellant has claimed that the proposals accord with DP policy SP2² and that when this policy is read at face value, there is no conflict with it at all. However, we would argue that when read in detail, including the supporting text and policy SP2 6), this is not at

¹ CD E1 page 17

² CD E1 page 21

all the case. The proposal is in conflict with SP2 for the following reasons:

- Paragraph 6 of SP2 states: “In the remainder of the rural area, Policy SD10 will apply to proposals for residential development.” We will come to this shortly.
 - SP2’s supporting text at 3.2.4 states: “The three JCS authorities want to concentrate new development in and around the existing urban areas of Cheltenham... to meet their needs, to balance employment and housing needs, and provide new development close to where it is needed and where it can benefit from the existing and enhanced sustainable transport network. Most of this development will be in the form of urban extensions within the Tewkesbury borough...”
6. So, to realistically accord with SP2, development proposals should be positioned to the west of Cheltenham where the Borough’s plan, focus and ambition is to establish a core area to co-locate sustainable development and employment opportunities. This is evidenced within the strategic allocations identified in the JCS³, the supporting text at 3.9 to CP policy EM1⁴ and supplementary planning documents.⁵
 7. JCS Policy SD10⁶ provides further detail around sustainable and accessible locations for residential development in the JCS area. This proposal does not accord with SD10 and Mr Hutchison accepts this at his para 7.29⁷. However, he caveats this, claiming that in his opinion SD10 is clearly out of date and should be afforded reduced weight. It is our view that full weight should be given to the policies of the development plan. There are policies within footnote 7 of NPPF 11 d) which provide a clear reason for refusing the development proposed and will therefore disengage the tilted balance, and thus allow the full weight of the development plan, but we will return to this later.
 8. Further, our view is that SD10 is not frustrating housing delivery as claimed by the appellant but performing as intended, that is, protecting the rural environment from inappropriate and unsustainable development.

Historic Environment

9. Part of the appeal site sits alongside the Grade II listed structures and buildings of Hewletts Reservoir. As explained in our evidence this complex of reservoirs and ancillary buildings and structures hold a

³ CD E1 para. 3.2.11

⁴ CD E2-A. chap.3

⁵ CD L4 & L5 part 1-3

⁶ CD E1 page 61

⁷ CD C15-L

significant historic connection with the development of Cheltenham and its environs from the early 1800s.

10. The setting of these historic assets makes a substantial contribution to their significance. It is our opinion that the inclusion of modern housing with associated infrastructure such as roads and street lighting in such close proximity to the assets and within their setting will severely degrade an understanding and appreciation of their positioning and function. The proposed development within the setting of the reservoir's complex will create unwarranted harm to the significance of this heritage asset.
11. The appellant's have provided a photomontage of the possible future outlook from the reservoir's pavilion towards the west⁸ as well as a current image. The first thing to notice between the current view and the 10 year simulation is the enclosing and containing effect that the housing/tree mitigation will have on the pavilion's immediate outlook. Currently, looking out from the pavilion the views are wide, expansive and distant. The simulated image at 10 years shows how the nearby tree screening will significantly devalue the westerly outlook and reduce this once broad view by around 50%. These trees do not stop growing at 10 years, so the outlook will only become further constrained. Of course, the photomontage image is a representation of the alternative masterplan. If there were an equivalent image showing the pavilion's outlook when considering the original masterplan then the outcome would be significantly worse. The original masterplan shows many more trees clustered directly in front of the pavilion and a further significant band on either side of the surface level estate road. This is additionally illustrated in CBC's response to the alternative master plan.⁹
12. We also have concerns regarding the distant trees' screening impact on the views towards Cheltenham as the trees continue to grow on to maturity. As we explored at the inquiry it is our view that the required height of the trees in fields 1 and 2 to achieve the appellant's desired development screening, will be at such a height that it will also screen the distant views from the pavilion towards Cheltenham. In addition, these trees will also curtail distant views of the escarpment to the north from within fields 1 and 2. This significant 12m wide tree band is not at all well represented in the year 10 image and we are of the opinion that its impact on the

⁸ We appreciate that the simulated images are with reference to the alternative master plan and that the tree band mitigation does not align with plan view as we identified in our response to the alternative master plan in the relevant CD Inquiry Document. However, the tree mitigation gives a fair idea of development screening and loss of outlook from the pavilion.

⁹ CD Inquiry Document: CBC's response to the alternative masterplan, page 5: A useful illustrative comparison of the indicative tree positioning in the southeast quarter

pavilion's outlook has been underestimated and certainly not considered sufficiently beyond 10 years.

13. Photomontage figures 10 & 15¹⁰ depict simulated images looking out from and back towards the pavilion. These images further illustrate and support our opinion and evidence of the adverse impact that the proposal will have on the significance of the assets, particularly the pavilion, by the urbanising effect it would have on its setting. It makes no difference that this relates to the alternative masterplan rather than the original because any road with signage, lighting, traffic etc would be clearly intrusive and evident.
14. The whole of the reservoir complex is historically significant, and every element would to some varying degree be adversely affected by the proposal. However, it is our view that the asset most negatively impacted by the proposed development's intrusion into its setting will be the pavilion. During the inquiry the appellant's heritage witness maintained that the pavilion was nothing more than an ornately decorated valve house and that its position within the reservoir complex was purely incidental. The witness relied in some part on Historic England's definitive listing where the pavilion is described as a "probable valve house" (while demurring on other observations of the listing). However, when the witness was asked where it is categorically defined or described as a valve house her answer was "nowhere". On the face of it, it is quite easy to believe that this valve house presumption could turn out to be fact. However, with only a little further research, we provided evidence to the inquiry to show that not only in our view but also beyond all reasonable doubt the pavilion had been constructed and used as a summerhouse. As a summerhouse it would align with the official list entry for the associated reservoir's gates, gate piers and boundary wall which states: "...their appearance belies their functional purpose and instead helps give the complex the appearance of a country house garden".¹¹ It would make sense to round off the deception of a country house garden with a strategically placed summerhouse, one which, with all round viewing opportunities, is seen by passers-by to be in a commanding and dominating observational position in a pastoral landscape. And equally, a summerhouse that has been strategically positioned within the reservoir's complex to afford shelter whilst showing off the splendid, all-round, distant views to the reservoir to visiting investors and dignitaries as our evidence shows. One can search for reasons and present dubious interpretations of evidence in order to discount what is obvious for the purpose of suiting a particular narrative, but to use a rather crude analogy: if it

¹⁰ CD Inquiry Document: Photomontage Part 2 figs. 10 & 15

¹¹ CD H13 pdf page 13, Reason for Designation, bullet 1.

looks like a duck, swims like a duck, and quacks like a duck, then it probably is a duck.

15. Ms Stoten's comparison between the Hewletts' Pavilion and the Northfield valve house is very weak and does not stand up to scrutiny. Better comparators were provided by Mr Holborow in his rebuttal evidence. To our mind a summerhouse in a complex such as at Hewletts reservoir is unique and no compelling evidence has been presented to argue against this point. This uniqueness warrants special consideration when weighting its significance in the planning balance.
16. An open countryside around the reservoir supports the listing's description as giving the complex the appearance of being a country house garden. Country houses are not typically bordered/surrounded by built form.
17. Historical interest arises from gaining understanding of the past. In the past the reservoir complex was open to the public to enable an appreciation, not only of its architectural and engineering achievements but also its setting. Currently the complex is closed to the public, but there is no reason to suppose that in the future it could not once again be opened up for the enjoyment and interest of all as it was for the visitors in the 19th and 20th centuries. When the pavilion is considered as a summer house, then its position is of paramount importance and therefore the contribution that this makes to its significance is of primary value. The Pavilion, its outlook and its current setting should therefore not be harmed and should be protected and preserved for future generations.
18. Historic England's Good Practice Advice in Planning part 2 advises us that "Where the significance of a Heritage asset has been compromised in the past by unsympathetic development to the asset itself or its setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with NPPF policies". Neither this proposal, nor the Birdlip Road development at the former GCHQ site are sympathetic to the appearance of a country house garden setting as per the Historic England listing and this cumulative impact has not been addressed. The advice goes on to say that "Negative change could include severing the last link to part of the history of an asset or between the asset and its original setting". Our view is that the last historically significant link, which visually connected the reservoir to Cheltenham and its suburbs, will indeed be severed, together with the last link between the complex and its countryside setting of Oakley Farm Pastures which contributes to its appearance of a country house garden.

19. We suggest to the Inspector that it is imperative to protect the remaining views available from the pavilion. This ornate and fine building is unique in this disguised reservoir complex. It is unfortunate that the area of Birdlip Road that was once part of GCHQ wasn't returned to its former rural state securing the pavilion's views to the north. But this part of a brownfield site would have been difficult to refuse for development. However, retaining the remaining visual outlook elements from the pavilion as they currently are will go some way to retaining the significance of this heritage asset for the enjoyment and understanding of future generations. There can be no valid argument now to further erode the building's setting with close quarter development on Oakley Farm Pasture Slopes when there is an opportunity to protect it on the grounds of its heritage significance.
20. Whilst the development proposal will cause less than substantial harm to a heritage asset, the harm to the pavilion will be at the highest end of the range and the proposed mitigation and public benefits suggested by the appellant offer scant compensation for the damage caused to the significance of this asset.
21. NPPF paragraph 200 requires that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
22. The appellant has failed, against the requirements of NPPF para. 203, to fully recognise the independent role of the site's non designated heritage assets. Little attention has been given by the appellant to the significance of the ridge and furrow evident on the site and hence to the harm or loss that would be brought upon it by the development.
23. NPPF paragraph 203 protects non-designated heritage assets and requires that the effect on significance of such assets should be taken into account.
24. We have shown that the harms to the heritage assets as a whole are substantially detrimental and are not outweighed by the public benefits taken as a whole.
25. This proposal fails to accord with policy SD8 of the JCS and the policy in NPPF paragraph 202 together with NPPF paragraph 200 which therefore provides a clear reason for refusal. Therefore, engaging NPPF paragraph 11 d) i which disengages the tilted balance.

Cheltenham's Development Position

26. The planning officers report to committee at para 6.15 outlines the principal reason for the under delivery of housing. Cheltenham, like many other planning authorities, is struggling to meet its 5-year

housing land supply. However, unlike many other authorities, land has been allocated and agreed for development.

27. CBC and JCS are well aware of land constraints and have already released green belt land for development in the west of Cheltenham. The JCS review may consider further green belt release or even the release of AONB land, but this needs to be a plan-led decision.
28. Even if it is necessary to allocate other greenfield land beyond the PUA, the 25 Year Environmental Plan and NPPF 175 advise 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 a nationally designated AONB whereas green belt land is locally designated. If, as the appellant suggests, AONB land should be released for development because of surrounding landscape constraints then a precedent would be set for diminished protection for nationally designated land anywhere in the UK if it borders urban areas with housing shortfalls. This cannot be acceptable.
29. The Friends recognise that further development opportunities within the urban area of Cheltenham are limited and that is the reason for the focus of future development to the west of Cheltenham as detailed within the CP. A short term partial fix, as this proposal is, at the expense of the AONB is not the solution to a housing shortfall. One benefit to the community should not be traded in for another even if all opportunities within the built-up area have been exhausted. If this were policy, then we would most likely see CBC approving developments within any remaining open green space, even parks, within the town.
30. 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 for housing and a genuinely exceptional need in the sense of unusual or rare. (Core doc K25 para 52i) Cheltenham's 5-year housing land supply shortfall is unremarkable nationally, where approximately 30% of local authorities are in a similar position (CD C19b Weblink to Savills).
31. As we consider below, the appellant offers nothing to demonstrate that the Borough's circumstances are sufficiently exceptional to warrant the approval of this particular development in the AONB. After all, many other planning authorities are in similar shortfall positions, and CBC through the JCS review have a plan led solution in place to address the delays and shortfalls and to correctly pursue alternative solutions.

32. To our minds the appellant has severely overstated the benefits and understated the harms that would be caused by the proposal to the landscape character and visual effects that the proposal will bring, while failing to identify any exceptional circumstances or benefits in the public interest that would outweigh the very significant harms. Landscapes such as these are so highly valued that it is in the public interest that they should be protected from inappropriate development.
33. We have supported the Council's view with our own evidence that the appellant has failed to demonstrate any exceptional circumstances that would justify the proposed major development within the AONB and thereby outweigh the identified harm to the AONB.

Landscape and Visual Effects

34. Claimed "new views" are not new at all. We have shown that the views from the Harp Hill road have existed for decades and have been equally appreciated by walkers, cyclists, horse riders and motorists. The views have been available to everyone. It is only since the current site owners chose to disengage with hedgerow management and to let them grow uncontrolled, that the views have been hidden from the public. Of course, it is the owner's choice as to what they do with their hedges. However, it is reprehensible of them to close off these longstanding views, for what appears to be for no other reason than to subsequently and disingenuously claim the opportunity to create new views. Witnessing the scenic beauty of this valued and designated landscape and the openness of Oakley Farm fields with their inclusive veteran broadleaf trees was a wonderful experience. It was free and it was cherished. Under the proposal, this same experience is now being offered for sale, the cost of which to the wider public is the loss and degradation of a section of a national designated landscape. It does not seem right that the appellant's intention to manage the hedging along Harp Hill and footpath 86, as previous owners always have done, is conditional on planning permission being received.
35. If it helps the Inspector, he may wish to access the Street View element of Google Earth/Maps to gain an understanding of the previous views from along Harp Hill. The current street view images are from May 2021.
36. Equally, along the PROW 86, the significant glimpses of scenic views through the open fields of the appeal site provide the foreground to the scenic beauty of the Cotswolds scarp. These expansive views available to all will if the appeal is allowed be blocked behind a barrier of tree planting installed to hide the incongruous housing development. A tree barrier which is in place as mitigation will indeed

create harm to the site's openness. These lost views are not in the public interest of footpath 86 users.

37. Mr Harris agrees to loss of openness in the middle and lower pastures in his PoE at para. 6.11.¹² However, we would add that the openness throughout the site will also be curtailed with the inclusion of the tree band mitigation.¹³
38. The appellant summarises that the proposal will create an adverse minor/moderate landscape and visual effect to Oakley Farm¹⁴. This assessment is at odds with that of the Council's landscape witness who assesses that the proposal would have a Major/Moderate, Adverse and Permanent overall landscape effect.¹⁵ Notwithstanding our view and that of CBC that these effects have been underestimated, we note that running through the appellant's evidence there is an underlying theme that harm to the landscape and scenic beauty, to a degree, is acceptable. This notion manifests itself when the appellant frequently refers in their evidence to the paragraphs and policies of the NPPF as not being "nil harm" or "nil detriment", or having "no embargo on harm". To our mind this does not align with their claim that "the project has been landscape led from the outset".¹⁶ Reliance on nil harm policies is wholly the wrong approach when proposing development in a designated and valued landscape such as the appeal site. Firstly, as far as the framework is concerned, the starting point for development in designated landscapes is in the context of NPPF chapter 15, conserving and enhancing the natural environment. Secondly, the proposal is in the AONB where paragraph 176 calls for "great weight" to be given to conserving and enhancing landscape and scenic beauty in these areas, which have the highest status of protection in relation to these issues. Thirdly, the proposal is for major development in the AONB, and in this regard NPPF paragraph 177 states that permission should be refused other than in exceptional circumstances, and where it can be demonstrated the development is in the public interest.
39. Paragraph 8c of the Framework confirms that achieving sustainable development includes the recently upgraded environmental objective to protect and enhance our natural environment. Paragraph 174 also says that "...decisions should contribute to and enhance the natural and local environment by ... (b) recognising the intrinsic character and beauty of the countryside...". JCS policy SD6 thus aligns with the framework where it states, amongst other matters: "Development will seek to protect landscape character for its own intrinsic beauty"... and "Proposals will...be required to demonstrate how the

¹² CD C15-G

¹³ CD A18 Part 3. Fig.25

¹⁴ CD C15-G para. 6.10

¹⁵ CD C16-B para. 10.6 & 10.7

¹⁶ CD C15-G para. 2.4

development will protect or enhance landscape character...” Whether or not these are viewed as not “nil harm policies” as is the appellants assessment, they nevertheless are a significant bridge to cross and which in our view the appellant has failed to achieve.

40. The Cotswolds AONB is the largest of all those in the UK. It is therefore inevitable that the characteristics, defining components and qualities of its landscape and scenic beauty will vary across its area. Of the defining special qualities listed in the CCB MP, those evident at the site are: well preserved ridge and furrow fields, views to and from the Cotswold escarpment, and the visible presence in the landscape of the limestone geology. Other special qualities visible from the appeal site and in its vicinity on the escarpment are: internationally important flower-rich limestone grasslands, an iron age fort and broadleaf woodlands. Other features of the site include long-established veteran hedgerows, field divides of ancient and veteran broadleaf trees, solitary single grand oaks, immediately adjacent public rights of way and high quality pasture with mature parkland setting trees. The Oakley Farm pasture slopes comprise no ordinary landscape; they are typical of their setting in the AONB and are closely linked to it, be that physically to the south and east or visually to the northwest through to the east. They are an integral part of this designated area and carry distinctive features contributing to its natural beauty, providing a stunning visual gateway to its heart.
41. It is unlikely that any given site within the AONB would exhibit all of that AONB’s defining special qualities and perhaps in some areas they may contain none at all. However, every part of a designated area contributes to its whole in some way, and it must be remembered that this is the basis on which AONB boundaries are drawn. Great care must be taken if considering areas in isolation.
42. There is agreement that the site is bordered by settlement to its northern, southern, western and, in part, eastern boundaries. Hewletts Reservoir also forms part of the site boundary to the east. Because of this the appellant asserts that the site is contained.
43. In a plan view of the site, it can appear contained. However, when standing within the site itself there is little evidence or feeling of containment. Equally, when the site is viewed from within the AONB at Northfield Farm’s fields to the east, the site provides the verdant foreground to the distant views of Cheltenham town, with no element of containment visible.¹⁷ Likewise, views into the site from Harp Hill¹⁸ and Brockweir road¹⁹ do not convey an image of containment and

¹⁷ CD C19-F Fig.2

¹⁸ CD C19-F Fig.3

¹⁹ CD C19-A Fig.6

neither do views from the reservoir's pavilion.²⁰ Immediately to the west from PROW 86 there are open views²¹ towards the east with the minimum degree of containment. From the Cotswolds scarp the appeal site is seen as verdant middle distance sloping pastures in the foreground to a backdrop of the wider AONB.²² So, there is no view or sensation either into the site or from within it which could be considered to exhibit no more than the slightest degree of containment. Clearly, from within the site's immediate periphery there will be an association with the existing built form. However, this is very rarely in more than one direction. Standing in any of these pasture fields does not instil a feeling of containment; on the contrary, the site retains its rural feel, character, and a significant degree of tranquillity.

44. In addition, the site itself contains its own naturally occurring mitigation to any perceived containment effects. Within it, landscape qualities of veteran hedgerow borders and field boundaries of broadleaf trees provide a natural screen. The surrounding built form to the north in particular may have an influence on the site's character, but this is limited to the site's (and AONB's) edge.
45. Furthermore, when the site is viewed from any of the above identified locations, it is evident that the site conforms fully to its open sloping pasture landscape character assessment and maintains its fundamental link with the wider AONB. Under the proposals the openness and inherent character would be lost. Additionally, the ancient and veteran trees in the centre and north eastern fields are a distinctive landscape resource. Whilst the trees themselves may be retained, their influence on the landscape character and contribution to the scenic beauty will disappear behind housing and, instead, they will be closely visible to only a few new residents.
46. The site's character is little different today than at the time of the 1990 AONB boundary review. Harp Hill and Wessex Drive have barely changed and the Grade II listed Hewletts Reservoir complex with its dominant pavilion and boundary wall remains the same. To the north and northeast, residential dwellings have now replaced what was once the concrete mass and vast complex of buildings and structures of the former GCHQ, including its significant boundary security fencing and lighting (see Fig. 1 and Fig. 2).²³ At the time of the review, the quality of the scenic landscape, near and far views and open pastures warranted retention together with the additional incorporation of the western field into the AONB. These qualities of beauty identified in 1990 are the same qualities that remain today.

²⁰ CD C19-F Fig.1 Heritage setting, private land.

²¹ CD C19-A Fig 8

²² CD C19-A Figs. 11-13,15

²³ CD C19-A

47. With regard to the western field (Field 1) and the 1990 boundary review, the appellant asserts that the field's inclusion into the AONB was nothing more than a rationalisation. However, they have presented no firm argument to counter our claim or the evidence of the CCB in regard to the character of the landscape being unimpaired by the coinciding of the AONB boundaries with the urban edge.
48. In Woolmore, R (2004) Designation History Series (referenced in the Friends' objection document), which refers to boundary changes along the eastern edge of Cheltenham in 1990, the officers concluded that it was not appropriate for an AONB boundary to coincide with an urban edge unless the quality and character of the landscape has remained unimpaired by its proximity to urban development. We consider this to be the case with this site as a whole, and why Field 1 of this proposal justified its addition to the AONB.
49. The proposed tree belt is solely an attempt at mitigation and has no enhancing element. It would neither serve to protect the site's scenic beauty or its character and would be harmful to its appearance. It is also questionable whether it could successfully provide the year-round effect that the appellant expects. The appellant's landscape PoE is unconvincing in this regard; in claiming that "a new belt of tree planting across the site... has potential to fully mitigate... [and] has potential to enhance existing views", use of the word "potential" gives no assurance to a successful outcome, and rather indicates no more than a mere possibility of the intended result.
50. A further effect of the proposed tree mitigation belt would be to truncate the existing long range views. The appellant provides evidence of this in their photomontage image.²⁴ In visual terms this is a significant adverse effect to the visual receptors along Harp Hill and PROW 86. Initially the field of view will be filled with development. It will take many years, up to 30, for the planting to attain adequate maturity to provide sufficient screening. And of course, the screening will only be effective whilst foliage is present.
51. An important example of where tree mitigation will be ineffective is in relation to the Cotswold Way National Trail. Receptors along the high escarpment section of this trail will have the full view of the development and its estate roads and associated infrastructure. The whole of the proposed development will be seen equally from this high vantage point²⁵ and not, as the appellant claims, just the middle and upper areas.²⁶

²⁴ CD A18 Part 3 Fig.25

²⁵ CD C19-A Figs.12,13,15

²⁶ CD C15-G Para. 4.16

52. The suggestion of a former field boundary hedge, dividing fields numbers 1&2^{27,28} is only one of conjecture.²⁹ The idea is negated by the appellant's own archaeological evidence³⁰ which identifies the dividing feature as a "cut of ditch" lining up with an extant ditch visible in the landscape. Miss Stoten had presumably not had sight of this archaeological submission when asked by Mr Tucker if she had seen any evidence of a ditch, to which she had replied no. So, to purport that the proposed tree belt would be in character with the site and perhaps a reflection of a lost feature is baseless and such a tree belt would in fact be alien to these pasture fields.
53. In 2016 the revised landscape, sensitivity and capacity assessment for the Cheltenham AONB area was published.³¹ This was an independent, unbiased and objectively assessed opinion seeking locations where development might be appropriate on the urban edge of Cheltenham and in the AONB. The assessment concluded that the fields of Oakley Farm Pasture Slopes were highly sensitive to and had a low capacity for development. This constituted a valuable piece of work in the context of its objectivity.
54. During his impending site visit, the Inspector may note that the proposed new footpath link will funnel people out onto one of the narrowest parts of Harp Hill at the site's SE corner. We consider this to be a significant highway safety issue which was not sufficiently considered during the inquiry. Furthermore, any footpath access from the site directly on to any part of Harp Hill road would pose a safety issue. Without a safe access point the function of the internal footpath offering an alternative route would be nullified.

The Tilted Balance

55. National Planning Policy Framework NPPF Chapter 2 identifies three overarching objectives in attaining sustainable development. This is achieved, inter alia, by the application of policies in the framework. At the heart of the framework is a presumption in favour of sustainable development.
56. Paragraph 11 d) of the NPPF states "where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless... the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for

²⁷ CD A37-D Fig.6.37

²⁸ CD A15-G Para. 5.20

²⁹ CD A37-I Fig.03

³⁰ CD A37-J Plate 7 & Trench 19 context 1904

³¹ CD J3 Sect. 7.1

refusing the development proposed". The relevant policies are generally known as the footnote 7 policies.

57. The footnote 7 policies applicable to this appeal relating to development in AONB, a protected area, are found in NPPF paragraphs 176 and 177. In relation to Heritage, the relevant paragraph is NPPF 202. This is agreed with the appellant.
58. Paragraph 176 sets out the policies applicable to general development control in AONB's³² and is applicable to all proposals. In addition, Paragraph 177 applies solely to major development in these areas. Mr Hutchison confirmed this in cross examination.
59. It is our contention that both paragraphs 176 and 177 are relevant paragraphs in this development proposal, and that the application of policies within each of these paragraphs *independently* provide clear reasons for refusing the proposed development as detailed in NPPF paragraph 11 d) i, i.e disengaging the tilted balance. This is a fundamental point which we urge the Inspector to consider.
60. The relevant statutory provision for AONBs is the CROW act 2000, which provides that "[in] exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty".
61. NPPF paragraph 174 states that: Planning policies and decisions should contribute to and enhance the natural and local environment by:
 - 61.1. a) protecting and enhancing valued landscapes ... (in a manner commensurate with their statutory status or identified quality in the development plan);
 - 61.2. b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
62. Returning to NPPF Paragraph 176 which states: "Great weight should be given to conserving and enhancing landscape and scenic beauty in ... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues... The scale and extent of development within all these designated areas should be limited".
63. It is our view that both paragraphs 176 and 177 are tests to be applied independently: para. 176 for all planning proposals in AONBs,

³² CD K27 para.63

- be that major or non-major; and para. 177 in addition to 176, solely where the proposal is for major development in AONBs.
64. Our views align with the findings of the Monkhill cases.³³ We address these in more detail later.
 65. In the first Monkhill case Justice Holgate gave a useful 15 point summary of his interpretation of paragraph 11 of the NPPF.³⁴ Para 39 11) states: "Limb (i) is applied by taking into account only those factors which fall within the ambit of the relevant "Footnote 6" policy. Development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i)...".
 66. In the re-examination of Mr Hutchison, the appellant's advocate took him to paragraphs of the NPPF relating to development in the green belt to use as a comparator. It is our view that NPPF paragraphs relating to development in the green belt are a wholly different issue, as Justice Holgate explained in Monkhill.³⁵
 67. To correctly interpret and apply the policy in NPPF paragraph 176, it must be considered as explained at para 65 above, i.e. considering only those elements contained within the policy. It is our view that Mr Hutchison has failed in this regard.
 68. It is also our view that by conflating paragraphs 176 and 177 Mr Hutchison has adopted an incorrect approach in the application of policies within these relevant AONB paragraphs. Without the independent application and consideration of policies in paragraph 176, the isolated test of applying great weight when considering the balancing of harms against benefits of conserving and enhancing landscape and scenic beauty is lost. It therefore follows that an opportunity to address paragraph 11 d) i is also lost. This is contrary to the outcome of the Monkhill cases.
 69. In cross examination Mr Hutchison agreed that in regards to the AONB the inquiry should focus on paragraphs 176 and 177 of the NPPF. He also confirmed that "176 relates to all developments in AONB's and 177 tells us how we deal with major development". He then went on to agree that both of these paragraphs should be addressed in this case. However, our argument is that Mr Hutchison is not addressing these two paragraphs independently.
 70. He then went on to say that the benefits of the scheme as a whole outweigh the significant weight that he has given to the harms to landscape and scenic beauty. It is our view that this approach is wrong. It is missing the fundamental point that paragraph 176 is a test in its own right and must be considered in isolation of other NPPF

³³ CD K26 & CD K27 [63]

³⁴ CD K27 [39] 11)

³⁵ CD K27 [39] 12)

paragraphs in any proposed AONB development, be that major or non-major. The outcome of which, in this case, could determine how the application of NPPF paragraph 11 d) is applied and could, as we understand, provide a clear reason for refusal and disengage the tilted balance.

71. Our approach is bolstered when considering the planning balance carried out by Inspector Dr AJ Mageean in the Old Crawley Road, Horsham appeal.³⁶ This was an outline application for major development in the AONB with many circumstances similar to that of Oakley Farm.
72. At para 118 of that appeal decision the inspector considers in isolation the elements of NPPF para 176, that is landscape and scenic beauty of the AONB. She considers the benefits against the harms of only those elements in paragraph 176 to arrive at a conclusion in this regard.
73. Likewise, Inspector Webb in the West Charlton appeal³⁷ assessed the impact of the proposed development on the landscape and scenic beauty of the AONB in isolation of other factors.
74. Paragraph 176 is a footnote 7 policy as referred to in NPPF paragraph 11 d) i and confirmed in the Monkhill cases.^{38,39,40} If the policy in paragraph 176 is failed then this will engage 11 d) i thus disengaging the tilted balance and in our view re-engaging the full weight of the development plan.
75. Justice Holgate was also clear that once the test at 11 d) i is failed (in other words policies in the framework that protect areas such as AONBs do provide a clear reason for refusing the development proposed), then the “tilted balance” test at 11 d) ii is not examined or considered further.
76. Mr Hutchison’s failure is that he chose a general overall balance of the harms that he had identified, including to the landscape and scenic beauty of the AONB, against *all* of the scheme’s benefits as he viewed them. This he did before carrying out the balance exclusively identified in NPPF paragraph 176 and in the context of NPPF chapter 15 as explained in our paragraph 65 above.
77. Mr Hutchison carried out his overall planning balance in the belief that he had correctly considered NPPF paragraph 176. He is clear in his evidence that when he carried out the planning balance it was

³⁶ CD K43 para. 115 onwards.

³⁷ CD K45

³⁸ CD K27

³⁹ CD K26

⁴⁰ Within footnotes 1&2 reference to paragraphs are to the NPPF 2019 version. First part of paragraph 172 NPPF 2019 is paragraph 176 NPPF 2021. Second part of paragraph 172 NPPF 2019 is paragraph 177 NPPF 2021.

with the “tilted balance” applied.⁴¹ His approach therefore is effectively to show that applying the tilted balance demonstrates that para. 11 d) i) need not be invoked. As we have shown this was a flawed approach, because the “tilted balance” would be, in our view, disengaged by the engagement of NPPF 11 d) i) through the application of the policy contained in NPPF paragraph 176 which is sufficient to provide a clear reason for refusal.

78. The appellant’s evidence falls well short of overcoming the significant harms the proposal will have on the protection, conservation and enhancement of this section of an AONB and it is clear from Mr Hutchison’s evidence that he offers no countervailing benefits to the significant adverse weight he as applied to these harms.

79. Should the inspector agree with us and disengage the “tilted balance”, Mr Hutchison concedes that the appeal will be dismissed.⁴²

NPPF 177: Major Development in the AONB, Exceptional Circumstances and Public Interest

80. NPPF 177 states: “When considering applications for development within ...AONB, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.” This is a significantly high hurdle to overcome.

81. NPPF 177a goes on to say: “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”.

82. As stated earlier, it is our view that 250 houses would be a benefit to Cheltenham’s housing requirement, but this would be 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 ordinary meaning of the word. Cheltenham’s 5-year housing land supply shortfall is unremarkable nationally, where approximately 30% of local authorities are in a similar position.⁴³

83. The appellant offers nothing to demonstrate that the Borough’s circumstances are sufficiently exceptional to warrant the approval of this particular development in the AONB. After all, many other planning authorities are in similar shortfall positions and CBC through the planned mechanism of the JCS review are addressing delays and correctly pursuing alternative solutions through a plan led approach.

⁴¹ CD C15-L para. 8.61

⁴² CD C15-L para. 8.6 p.49

⁴³ https://www.savills.co.uk/research_articles/229130/309483-0

The impact of Covid-19 has not been helpful with the advancement of the JCS review, however, progress is now being made.

84. The appellant has put forward the view that benefits to the economy will occur as a result of the proposal during the construction period. Anecdotal evidence suggests that many construction jobs are likely to be filled by out of area contractors as opposed to local people. Construction materials for large projects such as this are sourced directly from the manufacturer and not obtained locally. In some cases, the developer will have their own production facilities. The construction phase will be relatively short, so this benefit is clearly not sustainable, and would apply to development anywhere.
85. Also, the major proportion of movements into the proposed affordable housing will result in relocations from other areas within Cheltenham, resulting in minimum net gain to the Cheltenham economy. The Oakley area is not deprived or in desperate need of investment, and shops and businesses will not become unviable if the proposal isn't built. Furthermore, the likelihood is that many newcomers will take advantage of new employment opportunities in the west of Cheltenham so are likely to use the larger and better shopping facilities located in that area.
86. There is no doubt that we have a national housing shortfall, which is widely acknowledged. We agree that NPPF paragraph 60 calls for a sufficient supply of land to deliver the Government's objective to significantly boost the supply of homes. It is also agreed that there is a national objective of delivering 300,000 homes per annum. However, neither of these statements requires that housing should be built regardless of location or at any cost to the environment.
87. The west of Cheltenham is earmarked for sustainable commercial and residential development, whereas the east is important for its landscape, recreational aspects, and tourism, including access to the local AONB. As the CP states: "Cheltenham's attractive setting... is a key factor in helping to achieve sustainable economic growth for Cheltenham."⁴⁴ The importance of tourism to the town with the AONB on its doorstep is a long term economic benefit which is in the public interest to retain. The main gateway to the AONB from the town is via Harp Hill where its views from the road, when walking, cycling or driving, offer a taste of the wider AONB to its visitors. Erosion or permanent destruction of this asset so close to the town will not support Cheltenham's tourist and economic strategy.

⁴⁴ CD E2-A para.7.4

88. The second element at NPPF para. 177 b) states should be assessed is: “the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way.”
89. There are strategically identified sites to the west and northwest of Cheltenham that have already been allocated for development and but for the delays previously identified would be progressing. However, within the JCS there is a plan led mechanism available which will address these delays and in so doing will assess the need for further development land and allocate this accordingly. Delays of this nature are not exceptional even without the significant effects of the covid 19 pandemic.
90. It is for the JCS review to recover strategic shortfalls as confirmed in the CP examination report.⁴⁵ We have shown that it is Cheltenham’s ambition to focus new development and employment opportunities to the west, where it will be needed and where it can be provided in a sustainable environment. The appellant has not offered compelling evidence to show that the JCS review is not progressing or that it has a long way to go before it can be relied upon; the appellant merely speculates that it will be delayed in a similar way to the adoption of the initial JCS which at the time was new ground for the Borough.
91. In accordance with JCS policy SP2 8, the identification of any additional urban extensions to help meet the unmet needs of a local planning authority must be undertaken through a review of the (development) plan. Any additional site allocations made through the local plan... must be in conformity with the JCS spatial strategy.
92. This proposal does not align with the spatial strategy of the JCS or the supporting aspirations of the CP and insufficient consideration has been given to the potential opportunities to the west and northwest of the town.
93. Green belt land was previously released for strategic development to the west of Cheltenham and it maybe that a further release may be required. It may also mean that non-strategic sites are identified within the AONB, but these options would be considered under a plan led approach and in accordance with agreed policy. To not follow this route, as is proposed by the appellant, will not be in the wider public interest.
94. If land constraints are considered to be an exceptional circumstance as proposed by the appellant, then this could set a precedence for further speculative development proposals all along Cheltenham’s AONB boundary. It would also be an issue not only for JCS authorities, but for other authorities in similar situations. If this need in itself gives rise to major development bordering national

⁴⁵ CD 16 para. 53

designated landscapes, then the highest level of protection accorded to these landscapes would be significantly eroded.

95. The third and final element that NPPF para. 177c) states should be assessed is: “any detrimental effect on the environment, the landscape and recreational opportunities...”
96. Mr Hutchison has explored the effects on the landscape in his PoE from paragraph 7.132. to 7.142 and indicates at 7.149 that exceptional circumstances have been demonstrated and that the proposal would be emphatically in the public interest. However, the loss of the designated landscape which provides a scenic foreground to exceptional long and short range views is clearly not in the public interest. Furthermore, on scrutinising the evidence in these paragraphs there is not even the merest hint of a single exceptional circumstance proven. There is absolutely no evidence to support this claim or warrant the assessment.
97. Mr Hutchison goes on at 7.151 to reason why when considering NPPF para. 176, it is not to say that any harm must attract overriding weight in the planning balance. To support this presumption, he then refers to other appeal examples. However, as we explored at cross examination these examples have little to compare in character and context with the Oakley Farm site.
98. The changes to the landscape character that the proposals will bring will be adverse and significant. The distant views of the Oakley Farm sloping pasture fields from the scarp edge, which provide the foreground setting to the long range views to the south and show the continuity of the AONB, will be materially changed to one of further built form. Immediately around the site the openness and rural feel will be altered to one of containment and urbanisation. Hidden behind new development, an appreciation of the site’s magnificent trees will be available only to a few new residents. The significance of the nearby heritage assets will be severely impaired by the adjacent development in their setting and the lofty and stately position of the reservoir’s pavilion will be significantly undermined, diluting its connection with the town and its suburbs.
99. Notwithstanding the loss of the ridge and furrow’s heritage significance, to which Mr Hutchison has had regard in heritage terms, ridge and furrow are also classified as a special quality of the AONB, qualities which contribute to what makes the AONB special and distinctive. Equally the views to and from the Cotswold escarpment are also a special quality. Unfortunately, both will be lost in part or in whole by either development or structural tree planting. Mr Hutchison has not identified any exceptional circumstances that would warrant the loss or degradation of either of these significant special AONB qualities, which is surprising given that in the

appellant's landscape PoE⁴⁶ there are claims that the design approach has been careful to consider the special qualities of the AONB.

100. In the context of recreational opportunity, there are some benefits to providing open space on the upper slopes; however, owing to the topography, ridge and furrow, proposed estate roads and proposed landform engineering works, these will be limited in scope and extent. In addition, the claimed new views, which are unlikely to endure, are as mentioned above not new at all and therefore should not be considered a benefit. The offered limited benefits are substantially outweighed by the very significant harms to the recreational enjoyment of the scenic beauty, local distinctiveness, change in the local landscape character, loss of openness and panoramic views, all outstanding qualities currently experienced and enjoyed predominantly by the users of Harp Hill or Public Right of Way 86.
101. The substantial and detrimental landscape impacts of the development will also significantly impact the setting of the heritage assets, in particular the elements of ridge and furrow pasture and the pavilion.
102. We have covered the development's impact on the ridge and furrow above in terms of AONB special qualities. Equally, the adverse effects will be felt on their non-designated heritage asset class.
103. Turning to the pavilion. Its significance and interpretation will be undermined by the detrimental effects of the harm caused, not only by the proposed built form, but also by the intended tree screening mitigation promoted by the appellant. If development is allowed where proposed, then the setting of the pavilion will lose its rurality, openness and perceived isolation, thus removing its significance. The appellant has not shown any degree of exceptional circumstance and public interest as to why this loss of significance to both the ridge and furrow and pavilion is warranted.
104. We have found nothing in the appellant's evidence to convince us that there are exceptional circumstances and sufficient public interest to justify the detrimental effect on the environment that this proposal will bring. Our views are supported by the Government's aspirations and vision set out in their 25 Year Environmental Plan.

The Prime Minister at the time stated:

"We hold our natural environment in trust for the next generation... ours can become the first generation to leave that environment in a better state than we found it and pass on to the next generation a natural environment protected and enhanced for the future."

⁴⁶ CD C15-G para. 7.30

“Over the next 25 years we must safeguard the environment for this generation and many more to come.”

“...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...”

In the same document the then Secretary of State for the environment said in his foreword: “...we safeguard cherished landscapes from economic exploitation...”.

The above quotes represent opinions and views at the highest level of national public office regarding the protection of our environment.

105. Further, NPPF para.177 requires that any major development proposals within an AONB must demonstrate not only that exceptional circumstances apply but that it would be in the public interest.
106. Mr Hutchison has from para 7.64 in his PoE highlighted a number of individual details across a range of issues, he then aggregates these at his para 7.149 to claim a demonstration of exceptional circumstances. Collating details, issues and circumstances in this way, particularly when they include few benefits, may describe the considerations that relate to the case but do not amount to exceptional circumstances or being in the public interest; rather, they are purely a collation of unique circumstances.
107. An application which is non-compliant with a development plan may be considered as a contributory factor that is not in the public interest. The local plan for Cheltenham has been adopted by its people and identifies through local knowledge and debate, sustainable land not only for homes in the right places but with the wider public interest at its heart. 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. This proposal does not align with that development plan.
108. There have been circa 400 genuine and compelling public objections to the proposal from a cross section of the community, and not one that is in support. 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. Comments from the Parish Council who were unanimously against

the proposal were strong and convincing. The CBC Planning Committee also supported the Council’s putative reasons for refusal unanimously. This reaction from local councillors’ and members of the public surely weighs heavily in the public interest balance.

109. 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 too generates a public interest consideration. The changes to the living conditions that would be experienced at approximately fourteen properties bordering the northeast section of the site would be adversely significant. Their residential amenity, together with the visual effects encountered from the Oakley Grange public areas, would be harmed to such an extent by this development proposal as to not be in the public interest.

110. In addition to the above, public interest weighting includes not only the provision of new homes, but the protection of locally cherished countryside and heritage assets. The Friends group has addressed this balance in the table of benefits versus harms at para 111 below.

111. For all of the above reasons, there are no exceptional circumstances identified or sufficient public interest weighting which overcome the harms found to warrant permission for major development in this section of the Cotswolds AONB.

112. NPPF paragraph 177 is a footnote 7 policy, the application of which, in this case having regard to our considerations above, provides a further clear reason for refusal of the proposed development.

113.

Appellant’s Claimed benefits	Adverse (harmful) effects and counter benefits.
Social benefits	
250 houses would be a public benefit to Cheltenham’s housing requirement	The public benefit of homes in Cheltenham should not be at the expense of losing other important public benefits and assets such as designated landscapes. To avoid this, the west of Cheltenham is earmarked in the CP for sustainable commercial and residential development whereas the area to the east is important for its landscape, scenery and to tourism and forms a significant part of Cheltenham’s attractive and recreational area.

Land at Oakley Farm, Cheltenham APP/B1605/W/21/3273053 – FOFPS - Closing Submissions

	<p>Sustainability and the practical needs of residents (e.g. working, shopping and school) are key consideration factors for future developments. The topography of Oakley Farm will discourage residents from walking or cycling routinely and is likely to prove a challenge for the elderly, families with young children and those with mobility issues.</p>
	<p>Residential amenity. It was not only made clear in the statement provided by Ms Jones to the inquiry but will be apparent at the inspectors site visit that the close proximity and overbearing nature of the development will be particularly harmful to the current living conditions of residents of properties on the eastern boundary. These properties will be adversely and severely affected by this proposal.</p>
Affordable Housing	<p>Affordable housing is low cost housing for people who cannot afford to rent or buy in the usual way. The advantages economically of affordable homes should not be diminished by the resident's need to spend disproportionate amounts of their income on one or more vehicles due to the site's topography and its location in the east of the borough. Main transport hubs, key infrastructure improvements, and future job opportunities co-located with housing are the deliverables of projects already underway on the opposite side of the town over 4 miles away.</p>
	<p>Should homes on Oakley Farm be delivered before the planned homes in the west (and we do not know that this will be the case), the new residents may, once the JCS vision for the west of town materialises, wish they had made a different choice on location of their home. By then, this part of the AONB will have been regrettably lost.</p>
	<p>Re housing waiting lists, it should not be presumed that people on housing waiting lists don't have their own priorities, needs and location preferences. We have not been shown any evidence on the numbers of people who wish to live at Oakley Farm and given the lack of support by the public for this proposal we can conclude there are not many.</p>
	<p>Undermining either a democratically agreed plan led system or the spirit and clear intention of policies is detrimental to</p>

	the wider public interest. Housing allocation shortages should be resolved through agreed process (formal review) solutions.
Economic Benefits	
Expenditure on construction/investment and creation of construction jobs	Anecdotal evidence suggests that many construction jobs are likely to be filled by out of area contractors as opposed to local people.
	Construction materials for large projects such as this proposal are sourced directly from the manufacturer and not obtained locally. Often the developer has their own production facilities.
	The construction phase will be relatively short so is not a sustainable benefit.
	Tourism and the AONB is of long-term economic importance to the town. There are over 100.000 tourists and visitors to Cleeve Common every year, most accessing the area via Harp Hill.
	Erosion of the town’s setting does not support the town’s tourism strategy, nor does it align with the CP.
	Cheltenham is a place where the quality and sustainability of our cultural assets and natural and built environment are valued and recognised locally, nationally and internationally and where tourists choose to return.
	The vast majority of people relocate within the Gloucestershire area, ⁴⁷ 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.
Homes for economically active people	SP1 of the JCS (CDE1 Pg 17) explains that its strategy for development aims to locate jobs near to the economically active population, increasing sustainability and reducing out-commuting thereby reducing carbon emissions from unsustainable car use. This strategic aim dovetails with the sustainability aspirations of the CP, for example its Para 3.10.
	While accepting that there is a deficit of homes in the borough, a short term fix at the expense of the AONB which may leave economically active people wishing in the longer term that they had waited for

⁴⁷ Gloucestershire local Housing Needs assessment 2019, Fig.10 and para. 2.24.

	homes in the west of town is not a good solution.
Financial contributions	Financial contributions towards offsite community infrastructure is proposed but Mr Hutchison recognises that these payments are essentially required to mitigate the impact of the development.
Environmental Benefits	
Footpath links	Pedestrians are ill-served by footpaths on parts of Harp Hill. The proposed footpath links will be of benefit to walkers using footpath 86 and walking along Harp Hill. However, many walkers use these routes to enjoy the views of Oakley Farm which will be severely compromised.
	The proposed link will funnel people out onto one of the narrowest parts of Harp Hill Road at the site's southeastern corner. This in our view is a highway safety issue.
	People who do wish to walk between Priors Road and Harp Hill can use either of the existing safer options, footpath 86 or through the Oakley Grange/Birdlip Road development, avoiding the narrow section of Harp Hill.
New public access to land and footpath links	Limited benefit given sloping topography offering restricted recreational opportunities.
	New residents of the proposed development will not make use of the accessible land at the top of the site because the roads and paths to get to it will be too steep. It is not practically accessible for many.
	The open space will not provide for children running freely due to the danger of traffic on the roads running through it. Mowed paths also make using a pushchair or wheelchair difficult. The sloping nature of the area with its retained ridge and furrow will hinder ball games and walking in general.
Green infrastructure and biodiversity enhancements	The Tree Protection Officer in his report confirms that some existing trees will be lost. Existing hedgerows will also be removed. The proposed trees may not develop for many years and their survival will be dependent on close monitoring. Most of the proposed green infrastructure is provided primarily for mitigation purposes.
	The Government's 25 Year Environmental Plan celebrates the outstanding achievements of the past 100 years in relation to designated landscapes. Clearly

	the intention of this Plan is not to undermine this achievement but to ensure that AONBs continue to be conserved and enhanced and that planning policies and decisions should contribute to this aim.
Heritage	
Better appreciation of the pavilion:	In heritage terms the proposal as a whole will create less than substantial harm to the designated heritage assets and substantial harm to non-designated assets. It neither conserves nor enhances the significance of the reservoir assets by harming their setting considerably.
	The proposal will cause harm to the significance of heritage assets and severely damage the ability to appreciate those assets' significance without providing clear or convincing justification, which is contrary to NPPF para 200.
	The fine all round architectural detail of the pavilion is more appropriately appreciated from within the complex itself as it would have been historically by visiting dignitaries with its countryside backdrop, giving the appearance of a country house garden as per its heritage listing. The benefit to the public of close proximity views is little compensation for the loss of its true heritage significance.
	The proposal will harm the setting of the heritage asset. "The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights of way or an ability to otherwise access or experience that setting. The contribution may vary over time." ⁴⁸
	The benefit of closer views of the exterior of the pavilion will be offset by the loss of views from within it or its veranda. Views of Cheltenham and its suburbs which contribute to the historical link with the town from the complex will be lost.
Information Boards and removal of wall vegetation.	These benefits are insignificant when weighed against the overall heritage harm. The owners of are obliged to remove the wall vegetation if it is causing damage.
Landscape and Scenic Beauty: Enhancements (No enhancements are identified by the appellant)	The proposed development would fail to conserve or enhance the landscape and scenic beauty of the AONB and would result in very significant harm

⁴⁸ Planning practice guidance - Historic environment: Paragraph 013, Reference ID: 18a-013-20190723

Land at Oakley Farm, Cheltenham APP/B1605/W/21/3273053 – FOFPS - Closing Submissions

	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, creating significant and demonstrable harm to the qualities and intrinsic beauty of this part of the AONB.
	This development will harm the setting of Cheltenham including views into or out of areas of acknowledged importance contrary to policy L1 of the Cheltenham Plan.
	Proposed new mitigation tree-planting will change the character of the area and have a significantly harmful effect on the landscape and aesthetic appeal of the pasture fields.
	Landscape harm is not limited by restricting development to the lower parts of the site as claimed by the appellant. The development equates to over two thirds of the site.
	The new access road will introduce a harmful settlement feature where there is currently none. This will be out of keeping with this semi-rural location in the AONB and with its street lighting, traffic and associated road signage cannot be mitigated. Mitigation does not remove all harm.
	The current distant views of the escarpment across the appeal site from footpath 86 will be significantly curtailed. There will be unacceptable harm to views of the site from local SSSI, public areas and other PROWs.
	There will be harmful visual amenity effects on public areas at Brockweir Road.

Conclusion

114. Oakley Farm Pasture Slopes form a landscape of intrinsic beauty of some significance and are worthy of their national designation. Views from Harp Hill, which has attracted observers for many years, are of sheep grazed fields, historic hedgerows and veteran and ancient trees, all providing the foreground to distant views of the Malvern Hills AONB and middle-distance views of a wide expanse of the Cotswolds AONB escarpment and Cleeve Common SSSI. From many external points on the fields' boundaries one can experience a peaceful and harmonious setting of a rural and tranquil country landscape, often with a parkland feel. The veteran oaks and hedgerows provide sufficient screening from the recent residential development to the north as they once did of the GCHQ buildings. The character of this site has changed little since the AONB boundary review.
115. The proposed development would, however, result in an unwarranted intrusion into the Cotswold AONB which, if allowed, would result in severe degradation of the current visual amenity, creating significant and demonstrable harm to the qualities and intrinsic beauty of this part of the AONB. *Words taken from our evidence need freshening.*
116. The appeal site is bordered by the Grade II listed Hewletts reservoir complex with its significant visual connection to, and historic relationship with, Cheltenham town. The reservoir is an important reminder of Britain's and Cheltenham's historic civil engineering heritage and played a huge role in the town's development. The appeal site makes a positive contribution to the historic legibility and significance of the reservoir complex and forms an important part of its wider setting. Our group considers that the proposal will create less than substantial harm at the mid/upper end of the spectrum to the designated heritage assets, and substantial harm to the non-designated heritage assets.
117. We have provided evidence that proves beyond all reasonable doubt that the Pavilion was built as a Summer House and therefore the greatest contribution to its significance is derived from its architecture and its location. Whilst the development proposal may cause no harm to the physical form of the Pavilion, the harm that will be caused to its significance by development in its setting is however considerable. The appellant agrees that the Pavilion is a highly sensitive heritage resource. Development and associated tree

screening mitigation as proposed in the southeastern field and southern section of the site will substantially alter a key element of its setting. This would result in a significance of effect of major, which in the context of EIA regulations is a significant impact.

118. The Friends group is sceptical that the appeal site will ever resemble any of the master plans presented to the inquiry in even a broad sense. Constraints discussed, including those associated with Severn Trent infrastructure on site, sustainability issues with the site's gradients, particularly regarding active travel guidance, detail on green infrastructure, road and pathway placement etc., could change the offering significantly and negate any of the proposed very limited benefits. The true and full extent of harm to the landscape and heritage assets is almost impossible to determine.
119. Of particular concern is the proposed development mitigation. The appellant has offered no detailed or even potentially acceptable mitigation measures, for either the access road or the rest of the development, such that they would hide both throughout all seasons and in a short period of time, without at the same time hiding the cherished views from Harp Hill and other elevated areas.
120. We support the provision of homes on land, which is in the right place, sustainable and suitable for the needs of people who will live in them and is in accordance with development plans. It is not however in the wider public interest for these homes to come at the expense of other valued public assets, such as in this case the loss of designated landscapes or harm to the significance of Heritage assets.
121. Cheltenham's plan for economic growth includes the proposals for the Golden Valley Development to the town's west. The vision of this garden community on 200 hectares of land with the potential for future expansion, 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. It is a core area of focus for development in Cheltenham, a main thrust of Cheltenham's future economy and is close to major transport hubs. As this plan-led vision is moving forward, there is no place or need for unsustainable, outmoded speculative proposals such as this one at Oakley Farm.
122. With the above in mind, it would seem both contradictory and counterproductive to incorporate a major development entirely within the AONB over four miles away, on the opposite side of town. It would provide no benefit to existing road users, 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, nor would they support any harm to the setting of the grade II listed buildings and structures of Hewletts reservoir, a locally significant heritage asset which borders the site.

123. Public interest weighting must also include consideration of the harmful effect these developments will have on the lives and wellbeing of groups of existing residents living close to the appeal site. A benefit for some should not come at the expense of significant amenity loss for others.
124. This proposal conflicts with the Cotswolds AONB management Policies CE1, CE3, CE6 and CE12. It lies outside the Principle Urban Area of Cheltenham thus failing the tests of the development plan spatial strategy policies SP1, SP2 and SD10. There would be significant harm to the character and appearance of the area, the landscape and scenic beauty of the AONB and the significance of designated heritage assets. The special qualities of the AONB will be substantially eroded or lost altogether, as would elements of non-designated heritage assets. Development plan policies which protect the environment, landscape, designated areas and heritage assets are the Cheltenham Plan policy D1 and L1 and JCS policies SD6 SD7 and SD8 all of which align with the policies of the framework in paragraphs 8, 174, 176, 177, 200, 202 and will be conflicted by this proposal.
125. For all the above reasons the appellant has failed to justify this major development proposal in the AONB. The appeal should therefore be dismissed.