

**OAKLEY FARM PLANNING APPEAL:
COTSWOLDS CONSERVATION BOARD COMMENTS ON THE
ALTERNATIVE MASTERPLAN AND ASSOCIATED EVIDENCE**



1.0 SUMMARY

- 1.1 This document provides the Cotswolds Conservation Board's comments on the Alternative Masterplan and associated documents.
- 1.2 The Inspector has indicated that he is minded not to accept new evidence, including the Alternative Masterplan and associated documents and that, in effect, 'exceptional circumstances' need to be demonstrated in order for this evidence to be accepted. The Cotswolds Conservation Board does not consider that the appellant has demonstrated that exceptional circumstances apply in this regard.
- 1.3 In the event of the Alternative Masterplan being accepted by the Inspector, we recommend that:
- on balance, the landscape and heritage evidence should not be re-opened;
 - the status of the Alternative Masterplan should remain indicative / illustrative.
- 1.4 We consider that, in order to achieve the desired gradients, the Alternative Masterplan scheme would result in a more significant amount of earthworks (for example, in relation to the cutting and embankment associated with the access road) than the Original Masterplan version. This would result in a more significant, adverse landscape and visual effect.
- 1.5 We consider that the new photomontages clarify that:
- the proposed development is likely to result in an adverse effect on the currently open, undeveloped and pastoral character of the site and on the setting of the Grade II listed building of the Pavilion at Hewlett's Reservoir;
 - the access road and associated cuttings and embankment are likely to have a long term, adverse landscape and visual effect.

2.0 CONTEXT

- 2.1 In an email dated 27 November 2021, Mr Kerr Brown, on behalf of the Inspector, made the following comments:
- In terms of the appellant's alternative Masterplan, it was agreed that written submissions be made in advance of any discussions at the Inquiry on how to proceed on this matter. The appellant agreed to provide any written submissions to the Inquiry by **Friday 10 December 2021**; and that other parties would provide comments in response by **5 January 2022**.
- 2.2 Based on this statement (and related correspondence and discussions), it is our understanding that we are invited to comment on:
- The Alternative Masterplan.
 - The Landscape Note, dated 11 October 2021, provided by Mr Paul Harris.
 - The email from Mr David Hutchison, dated 10 December 2021, which provides the appellant's submissions as to why the Inspector should accept the additional information that the appellant has provided on the Alternative Masterplan issue.

- The photomontages that were provided as a link in the email from Mr Hutchison dated 10 December 2021.
- The planning gradients and long sections provided by Mr Hutchison in an email dated 21 October 2021.

2.3 In commenting on these documents, it is our understanding that we are also being invited to comment on whether the evidence / documents outlined above should be accepted by the Inspector. Similarly, it is our understanding that we are being invited to comment on whether the landscape and heritage evidence should be re-opened.

3.0 OVER-ARCHING PRINCIPLE OF WHETHER THE ‘ALTERNATIVE MASTERPLAN’ EVIDENCE SHOULD BE ACCEPTED BY THE INSPECTOR

3.1 The Inspector made clear in his Conference Note, dated 30 June 2021, that late evidence is to be strongly discouraged. In an email from Mr Brown, dated 2 November 2021, the Inspector expressed his concerns regarding the volume of additional evidence that had come forward subsequent to the inquiry being adjourned in September 2021, including the Alternative Masterplan and plans showing gradients and sections. The email stated that the Inspector was minded to not accept any of this additional evidence and that, in effect, this evidence would only be accepted under exceptional circumstances.

3.2 The appellant has subsequently provided their submission as to why their additional evidence *should* be accepted (in the email from Mr Hutchison, dated 10 December 2021). We appreciate that the Alternative Masterplan and related documentation have evolved from discussions during the inquiry. However, even taking this into account, we are not convinced that the appellant’s submission demonstrates the ‘exceptional circumstances’ required by the Inspector, as outlined below.

3.3 The appellant, in the email from Mr Hutchison dated 10 December 2021 (point 21), has stated that the Alternative Masterplan *‘is simply additional illustrative information to assist the inquiry and to inform a judgement about the acceptability of the scheme at the outline stage’* and that it *‘minimises any uncertainties about the deliverability of the scheme’*. However, we consider that the appellant should have provided sufficient information to address these issues in their Proofs of Evidence, rather than trying to achieve this by submitting late evidence after the inquiry had started.

3.4 As we understand it, the primary purpose of the Alternative Masterplan was to demonstrate that the proposed development could comply with Gloucestershire County Councils’ requirements relating to road gradients, etc. However, the appellant would undoubtedly have been aware of these requirements before submitting their planning application and when preparing their evidence for the appeal, prior to the commencement of the inquiry.

3.5 The appellant would also have been aware that the Inspector would potentially accept that it is necessary to control gradients in the way proposed by the County Council. As such, the onus should have been on the appellant to demonstrate that their scheme would comply with the County Council’s requirements ahead of the inquiry, for example, in their Proofs of Evidence. If they have failed to do so then the Inspector should consider the proposed development on that basis and not allow the appellant to retrospectively provide this evidence once the inquiry has started.

- 3.6 We do not consider that the issue of gradients should not be left to the Reserved Matters as this issue fundamentally affects the viability of the scheme, including the principle of whether the gradients specified by the County Council can be achieved.
- 3.7 Similarly, the onus should have been on the appellant to provide sufficient information (including relevant photomontages), ahead of the inquiry, regarding the potential landscape, visual and heritage effects of the cuttings and embankment that would be required for the scheme to comply with the gradients specified by the County Council. If they have failed to do so then the Inspector should consider the proposed development on that basis rather than allowing the appellant to retrospectively provide this evidence once the inquiry has started.
- 3.8 The appellant, in the email from Mr Hutchison dated 10 December 2021 (point 17) states that *'had the appeal been allowed with a condition requiring RMs to be in general accordance with the Original Masterplan, then the Appellant would submit that the Alternative Masterplan layout would still have been in general accordance with the original'*. Following this logic, if the Alternative Masterplan is 'in general accordance' with the Original Masterplan, there would be no need to provide an Alternative Masterplan, in this regard.
- 3.9 On a related point, we question whether the phrase 'in general accordance with' provides any meaningful context, criteria, thresholds or parameters. For example, could any proposal that complies with the appellant's Parameter Plans be considered to be 'in general accordance with' the Original Masterplan? If so, that would call into question the significance of both the Original Masterplan and the Alternative Masterplan and the weight that should be given to them and to the associated evidence.
- 3.10 On a separate point, it is worth noting the disproportionate knock-on effect that the submission of late evidence has on the Cotswolds Conservation Board.
- 3.11 The Board only has one officer (myself) who is involved in the Oakley Farm appeal / inquiry. In addition to being the Board's sole representative as a Rule 6 party in this inquiry, I also lead the Board's planning-related work across the 2,000 square kilometres of Cotswolds Area of Outstanding Natural Beauty (AONB) and the 15 local authority areas that overlap with it. In particular, I am concurrently leading the Board's technical input into the A417 Missing Link development consent application process, for which the Board is a statutory consultee, which is also very time consuming.
- 3.12 Having to review and comment on late evidence for the Oakley Farm inquiry has a significant knock-on effect on this other workload. It also has a knock-on effect with regards to preparing for the remainder of the inquiry (i.e. time that could have been spent on preparing for the remainder of the inquiry is being spent on reviewing and commenting on the late evidence instead). We consider the submission of late evidence to be an inappropriate burden on our very limited staff resource.
- 3.13 Overall, we do not consider that the Inspector's threshold of 'exceptional circumstances' has been met. As such, we do not consider that the Alternative Masterplan (and related submissions / evidence) should be accepted by the Inspector.
- 3.14 Without prejudice, if the Inspector is now minded to accept the Alternative Masterplan (and associated evidence) we request that this should be subject to:

- (i) the status of the Alternative Masterplan remaining as an indicative / illustrative document only;
- (ii) the Cotswolds Conservation Board being given the opportunity to make written submissions in respect of landscape and heritage issues pertaining to the alternative masterplan (and associated documents and correspondence).

4.0 WHETHER LANDSCAPE AND / OR HERITAGE EVIDENCE NEEDS TO BE RE-OPENED

4.1 If the Alternative Masterplan (and the appellant's related documents) is not accepted by the Inspector then it is not likely that the landscape and / or heritage evidence would need to be re-opened. As such this question only really merits consideration if the Alternative Masterplan *is* accepted by the Inspector.

4.2 We understand that both the appellant and Cheltenham Borough Council (and potentially other main parties) are reluctant to re-open the landscape and heritage evidence. We would be inclined to agree with these opinions, in principle, not least because of:

- (i) the amount of time that has already been taken up by the inquiry (both in terms of number of days on which the inquiry has been held and in terms of the overall duration) and the amount of time still to be allocated to it;¹
- (ii) the disproportionate knock-on effect that this would have on the Cotswolds Conservation Board, as outlined above (in relation to reviewing and commenting on late evidence); and
- (iii) the 'diminishing returns' of doing so, as outlined below.

4.3 During the inquiry, the appellant's landscape and heritage expert witnesses have been questioned about the potential implications of the Original Masterplan and associated evidence (including the appellant's original photomontages) in relation to these two topics. When potential adverse effects have been pointed out to the expert witnesses during this questioning, a recurring response has been that the Original Masterplan, the photomontages and associated evidence are just indicative and that the actual landscaping and tree planting, etc., could potentially be different, resulting in a different landscape, visual or heritage effect.

4.4 For example, the appellant's landscape expert witness, Mr Harris, was questioned about the Figure 20 photomontage on page 10 of core document 'A18 – Verified Views – Part 2' ([link](#)). This shows the 'Year 10' view looking northwards towards the proposed access point from Harp Hill. When it was pointed out that the trees shown in the foreground would obscure views of the Cotswold escarpment, Mr Harris commented that the tree planting wouldn't necessarily have to be the same as that shown in Figure 20.

4.5 We consider that it is highly likely that a similar situation would arise if the landscape evidence was to be re-opened and the appellant's landscape expert witness was asked questions about potential adverse effects that are shown in the photomontages that were subsequently provided in the email from David Hutchison dated 10 December 2021. As such, a considerable amount of time might be taken up with limited benefit (i.e. there would be 'diminishing returns').

¹ Also, if the inquiry was to extend beyond February 2022, there is a risk that further consideration may need to be given to new legislation and / or national policy, which would further extend the duration of the inquiry.

4.6 On this basis, we consider that there would be little benefit in re-opening the evidence in this regard, subject to:

- (iii) the status of the Alternative Masterplan remaining as an ‘indicative’ document only;
- (iv) the Cotswolds Conservation Board being given the opportunity to make written submissions in respect of landscape and heritage issues pertaining to the alternative masterplan (and associated documents and correspondence).

5.0 COMMENTS ON THE LANDSCAPE NOTE SUBMITTED BY MR PAUL HARRIS

5.1 Paragraph 3 of the Landscape Note states that *‘the access roads have been accommodated by cutting into the existing slope in a number of locations to achieve the desired gradients’* and that *‘if gradients are not imposed by condition then the requirement for cut and fill will be much less’*. It follows, vice versa, that the scale of the earthworks required to achieve the desired gradients (i.e. the Alternative Masterplan version) would be *much more* than scale of the earthworks required for the scheme as proposed in the appellant’s pre-inquiry evidence (i.e. the Original Masterplan version).

5.2 As such, the Alternative Masterplan version of the scheme would involve a more significant alteration to the natural landform of the site than the Original Masterplan version. In other words, the adverse landscape effects would be more significant in this regard.

5.3 The visual effects of the changes to landform in the Alternative Masterplan version of the scheme (i.e. the embankment and / or the cuttings associated with the access road) are clearly visible in many of the photomontages that Mr Hutchison provided in a link to in his email of 10 December 2021 (for example, Figures 15 and 30). The embankment and cuttings appear as incongruous features, not least because their gradient significantly differs from the gradient of the natural landform (i.e. up to 1:3 for the cuttings / embankment, compared to the gradient of approximately 1:12 for the natural landform, and / or in contrasting directions to the natural slope of the site). We consider that more significant changes in landform associated with the Alternative Masterplan scheme are likely to have an increased adverse visual effect compared to the Original Masterplan version.

5.4 Mr Harris’ comment regarding gradient (i.e. *‘if gradients are not imposed by condition then the requirement for cut and fill will be much less’*) implies that there has to be a choice between achieving the desired gradients and moderating the scale of the earthworks (i.e. the cuttings and embankment). This would not be an appropriate choice to make in this location, as outlined below.

5.5 The Oakley Farm site is located in the protected landscape of the Cotswolds AONB. One of the AONB’s ‘special qualities’ is *‘an accessible landscape for quiet recreation for both rural and urban users’*.² As such, a housing proposal for this site should, inter alia, both: (i) achieve the desired gradients; and (ii) avoid significant alterations to the natural landform. The proposed scheme (both the Original Masterplan version and the Alternative Masterplan version) would not achieve this.

² Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan*. Chapter 2 (Special Qualities). [N.B. This is core document

- 5.6 Paragraph 4 of the Landscape Note states that *'the design intention to achieve an open space of natural appearance remains practical and achievable'*. However, many of the photomontages provided as a link in Mr Hutchison's email of 10 December 2021, clarify that the sense of openness and the natural appearance of the site is likely to be adversely affected by the proposed earthworks and / or landscaping, compared to the baseline photographs (for example, Figure 10).
- 5.7 Further comments relating to the new photomontages are provided below and in Appendix 1.

6.0 NEW PHOTOMONTAGES – OVER-ARCHING COMMENTS

- 6.1 The majority of the new photomontages are for viewpoints that did not previously have a photomontage. As such, they help to clarify the potential visual effects of the scheme to a greater degree than the appellant's original, pre-inquiry evidence did.
- 6.2 For example, as indicated in the comments outlined above, the photomontages clarify that:
- the proposed development is likely to result in an adverse effect on the currently open, undeveloped and pastoral character of the site;
 - the access road and associated cuttings and embankment are likely to have a long term, adverse landscape and visual effect.
- 6.3 The photomontages only show summertime scenarios where the trees are in full leaf (i.e. not the bare tree scenarios that would be experienced for approximately half the year).³ The adverse visual effects are likely to be more noticeable / significant than indicated in the photomontages during the months when the trees are bare.
- 6.4 The photomontages indicate that all the newly planted trees would successfully grow until at least Year 10. However, a 100% success rate is not likely.
- 6.5 The photomontages don't show cars, vans or lorries on the access road or side road (including in the cuttings or on the embankment) and, as such, do not capture the visual effect of these vehicles.
- 6.6 Comments relating to the individual viewpoints are provided in Appendix 1.

7.0 EFFECTS ON HERITAGE ASSETS

- 7.1 As highlighted during the heritage sessions of the inquiry, the 'official list history' for the 'Pavilion at Hewlett's Reservoir' states that one of the principal reasons for listing it as a Grade II listed building is its *'architectural interest'*.⁴ In this regard, the listing states that the pavilion *'gives the appearance of a country house garden building'*.
- 7.2 As outlined in the Board's Proof of Evidence,⁵ we consider that the undeveloped nature of the Oakley Farm site provides an important backdrop to this 'country house garden' style building.
- 7.3 The photomontages provided as a link in Mr Hutchison's email of 10 December 2021 show that the access road and the associated cutting / embankment would be clearly visible in

³ The same applies to the original photomontages – Core Document A18 Parts 1-3.

⁴ Core Document H13 – Listing Descriptions ([link](#))

⁵ Core Document C18 – A ([link](#))

views from and to the pavilion in the long term (for example, Figures 10 and 15 respectively) with the new housing being clearly visible in views from and to the pavilion in the short term (for example, Figures 9 and 14).

- 7.4 As such, the photomontages help to clarify that the proposed development would have an adverse effect on the setting of the pavilion.

8.0 PLANNING GRADIENTS AND LONG SECTIONS

- 8.1 The Cotswolds Conservation Board has not had capacity to review the planning gradients and long sections in detail. However, our comments above, particularly those relating to the Landscape Note submitted by Mr Harris, do address the issue of gradients to some degree. We also note the comments that have been submitted on this issue by Gloucestershire County Council and by the Friends of Oakley Farm Pasture Slopes.

John Mills, Planning & Landscape Lead, Cotswolds Conservation Board

5 January 2022

APPENDIX 1. ADDITIONAL COMMENTS ON THE INDIVIDUAL PHOTOMONTAGES

N.B. The comparative statements are in comparison to the baseline photographs.

Viewpoint 4 – view looking N across road access point on Harp Hill (Figures 1-5, pages 4-8)⁶

The Alternative Masterplan has fewer trees directly adjacent to the access point. This is reflected in the photomontage. As a result, the view of the Cotswold escarpment at Year 10 is more open than in the original photomontages.

The new housing to the west of the access road is more prominent in Year 1 than in the original photomontages (for example, the top section of the vertical walls can be seen not just the roof).

Viewpoint 6 – view looking W from listed pavilion on Hewlett’s Reservoir complex (Figures 6-10, pages 9-13)

Notable reduction in openness (i.e. feels more enclosed), especially in the longer term.

New housing clearly visible in short term (Year 1) and rooftops / chimneys still clearly visible in longer term (Year 10).

Access road clearly visible, including in longer term (Year 10), with its prominence being increased by its presence as an incongruous engineered feature.

Notable change to the natural landform along the route of the access road route, including embankment at southern end (left hand side of the photo) – this is a landscape character issue, not just a visual effect issue.

Detrimental effect on rural setting of the listed pavilion as a result of the access road, etc.

Physical loss of ridge and furrow under new housing and perceptual loss of ridge and furrow (i.e. hidden by new trees).

Viewpoint 7 – view looking E from adjacent to the proposed access road (Figures 11-15, pages 14-18)

Notable loss of field boundary hedgerow where this has been removed to make way for the access road and the associated cutting.

The appellant happens to have chosen a location where the pavilion is not obscured by the new trees or the cutting (whereas the pavilion potentially would be obscured further down the road).

New houses clearly visible in the view towards the Cotswold escarpment in the short term (Year 1) and roofs / chimneys still visible.

Clearly shows the engineered landform of the road and cutting, which is notably different from the natural landform – this is a landscape character issue, not just a visual effect issue.

Viewpoint 8 – view looking E from gravelled footpath to the west of the road cutting (Figures 16-20, pages 19-23)

Notable reduction in openness (i.e. feels more enclosed), especially in the longer term.

⁶ Comparable photomontage from original evidence = Core Document A18 Part 2 ([link](#)), pages 6-10

Detrimental effect on open, undeveloped, pastoral character of the site (e.g. gravelled path, trees, etc.).

Notable change to natural landform as a result of the road cutting – this is a landscape character issue, not just a visual effect issue.

New housing much more prominent than existing housing in Year 1.

Notable reduction in the view of the Cotswold escarpment in Year 10, as a result of the tree planting (both to the left of the photo and to the right of the pavilion).

The appellant happens to have chosen a location where the pavilion is not obscured by the new trees or the cutting (whereas it probably would be obscured in other locations along this path).

Viewpoint 9 – view looking E from gravelled footpath to the west of the road cutting (Figures 21-24, pages 24-28)

Notable change to natural landform, including the road embankment (to the right of the photo), which would be visible in Year 1 and Year 10, and the road cutting, to the left of the photo (which would be visible in Year 1) – this is a landscape character issue, not just a visual effect issue.

Open character reduced as a result of tree planting.

Detrimental effect on undeveloped, pastoral character of the site (e.g. gravelled path, trees, etc.).

New housing noticeable in Year 1.

View of Cotswold escarpment partially obscured by Year 10 as a result of the tree planting (e.g. at the left hand side and centre of the photo).

Viewpoint 10 – view looking E from NW of the road embankment (Figures 26-30, pages 29-33)

The changes to the natural landform, resulting from the embankment and cutting, are very noticeable in this view.

New houses clearly visible in Year 1.

View of Cotswold escarpment partially obscured by Year 10 as a result of the tree planting (e.g. at the left-hand side and centre of the photo).

Reduced sense of openness, by Year 10, as a result trees being in closer proximity / more prominent (e.g. tree belt and trees on embankment).