



PROOF OF EVIDENCE - SUMMARY

COTSWOLDS CONSERVATION BOARD

Town and County Planning Act 1990

Section 78 Appeal

Planning appeal by: Robert Hitchins Ltd

Proposed Development: Outline application for development comprising of up to 250 residential dwellings including provision of associated infrastructure, ancillary facilities, open space and landscaping, demolition of existing buildings and formation of new vehicular access from Harp Hill. All matters reserved except for means of access to site from Harp Hill.

Location: Land at Oakley Farm, Cheltenham, GL52 6PW

Cheltenham Borough Council Reference: 20/01069/OUT

Planning Inspectorate Reference: APP/B1605/W/21/3273053

Author: John Mills B.Eng. (Hons.) M.Sc. MRTPI, Planning and Landscape Lead, Cotswolds Conservation Board

Contact Details:

Email: john.mills@cotswoldsaonb.org.uk

Tel: 07808391227

Date: 9 August 2021

CONTENTS

1.0	QUALIFICATIONS AND EXPERIENCE	1
2.0	SITE DESCRIPTION	1
3.0	SITE HISTORY	1
4.0	DESCRIPTION OF THE PROPOSAL	1
5.0	GROUND OF APPEAL, REASONS FOR REFUSAL AND MAIN ISSUES	1
6.0	THE DEVELOPMENT PLAN	2
7.0	OTHER MATERIAL CONSIDERATIONS	2
7.1	Statutory considerations	2
7.2	National Planning Policy and National Planning Practice Guidance	2
7.3	Additional AONB considerations	3
8.0	THE MAIN ISSUES	3
9.0	ANALYSIS OF MAIN ISSUE 2 – THE EFFECT ON THE LANDSCAPE INCLUDING THE AONB	3
9.1	Context	3
9.2	Effects on landscape quality	4
9.3	Visual effects	8
9.4	Effects on tranquillity	9
9.5	Effects on dark skies	10
9.6	Effects on natural heritage	10
9.7	Effects on cultural heritage	10
9.8	Effects on recreational opportunities	11
9.9	The need for the development	11
9.10	The scope for developing outside the Cotswolds AONB	12
9.11	Exceptional circumstances	13
9.12	Public interest	13
9.13	Tilted balance	14
10.0	ANALYSIS OF MAIN ISSUE 1 - WHETHER THE SITE SHOULD BE DEVELOPED	14
11.0	ANALYSIS OF MAIN ISSUE 3 – THE EFFECT ON HERITAGE ASSETS	14
12.0	CONCLUSIONS – OVERALL PLANNING BALANCE	14
	APPENDIX 1. SITE LOCATION, SITE BOUNDARY AND COTSWOLD AONB BOUNDARY	15

1.0 QUALIFICATIONS AND EXPERIENCE

- 1.1 My name is John Mills. I am a Chartered Town Planner with the Royal Town Planning Institute (RTPI), having achieved that status in March 2017. Since March 2018, I have been employed by the Cotswolds Conservation Board ('the Conservation Board') as their Planning and Landscape Lead. It is in this capacity that I am representing the Conservation Board as a Rule 6 Party in this planning appeal.

2.0 SITE DESCRIPTION

- 2.1 The appeal site is located within the Cotswolds AONB, on eastern edge of Cheltenham. This 15.3 hectare, greenfield site comprises a series of six fields that are bounded by hedgerows and mature trees. The site also includes the buildings associated with the former farmstead of Oakley Farm, towards the northern boundary of the site.
- 2.2 The site is bounded to the south by Harp Hill Road and to the west by Wessex Drive. The site is bounded to the north by the former GCHQ Oakley site which has recently been redeveloped for residential purposes. The grade II listed Hewlett's Reservoir and Pavilion form part of the eastern boundary of the site.
- 2.3 The site location, site boundary and Cotswolds AONB boundary are shown in Appendix 1.

3.0 SITE HISTORY

- 3.1 The planning history of the site is summarised in Section 2 of the case officer report to Cheltenham Borough Council ('the Council') Planning Committee at their meeting on 20 May 2021.¹

4.0 DESCRIPTION OF THE PROPOSAL

- 4.1 Outline application for development comprising of up to 250 residential dwellings including provision of associated infrastructure, ancillary facilities, open space and landscaping, demolition of existing buildings and formation of new vehicular access from Harp Hill. All matters reserved except for means of access to site from Harp Hill.

5.0 GROUNDS OF APPEAL, REASONS FOR REFUSAL AND MAIN ISSUES

- 5.1 The appellant lodged the appeal on the grounds of 'non-determination', following the alleged failure of Cheltenham Borough Council ('the Council') to determine the outline planning application (Ref: 20/01069/OUT) within the statutory 16 week period. The appellant's Statement of Case identified five main issues.
- 5.2 The Council subsequently identified seven putative reasons for refusal (PRFR). These PRFR and the appellant's main issues are summarised in the table below, which also indicates the areas of overlap between the two. The full PRFR are shown in Appendix 2.

Table 1. Putative Reasons for Refusal and Appellant's Main Issues

Cheltenham Borough Council's Reasons for Refusal (Summary)	Appellant's Main Issues
1: Doesn't meet the strategy for distribution of new development and is not an appropriate location.	1: Housing Land Supply 2: The Principle of Development

¹ Cheltenham Borough Council (2012) Notice of Planning Committee 20 May 2021 ([link](#)). Agenda Item 5e.

2: Major development within Cotswolds AONB – would fail to conserve and enhance landscape and scenic beauty; would result in significant harm; mitigation measures inadequate; fails to demonstrate the required exceptional circumstances or public interest.	3: Whether there are exceptional circumstances which justify major development within the AONB and whether it would be in the public interest
3: Would result in a severe impact on the highway network and fail to provide a safe and suitable access for all users.	4: Traffic and Transportation
4: Would have an unacceptable harmful impact on the setting of the heritage assets within Hewlett's Reservoir.	
5: Does not adequately provide for affordable housing requirements, schemes/strategies for play space provision and site management maintenance.	
6: Does not adequately provide for education and library provision.	5: Education Contributions
7: No agreement has been completed to secure the provision of necessary highway improvements works and the funding and implementation of the Residential Travel Plan.	4: Traffic and Transportation

6.0 THE DEVELOPMENT PLAN

6.1. The Development Plan, consists of the following documents:

- Gloucester, Cheltenham and Joint Core Strategy (adopted 2017).²
- Cheltenham Plan (adopted 2020).³

7.0 OTHER MATERIAL CONSIDERATIONS

7.1 Statutory considerations

7.1.1 Relevant statutory considerations include the purpose of AONB designation⁴, the purposes of the Conservation Board⁵ and the statutory purpose to have regard to the purpose of designation⁶.

7.1.2 Further information on these issues is provided in Appendices 1, 3 and 4, respectively, of the Cotswolds AONB Management Plan.⁷

7.2 National Planning Policy and National Planning Practice Guidance

7.2.1 Relevant section of the National Planning Policy Framework (NPPF)⁸ include paragraphs 176, 177, 11 and 174 and Section 16.

7.2.2 The most relevant Planning Practice Guidance (PPG), with regards to the Cotswolds AONB is the Natural Environment PPG, particularly paragraph 042.

² Gloucester, Cheltenham and Tewkesbury Joint Core Strategy ([link](#)).

³ Cheltenham Plan (2020) ([link](#)).

⁴ <https://www.legislation.gov.uk/ukpga/2000/37/section/82>

⁵ <https://www.legislation.gov.uk/ukpga/2000/37/section/87>

⁶ <https://www.legislation.gov.uk/ukpga/2000/37/section/85>

⁷ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

⁸ Ministry of Housing, Communities and Local Government (2021) *National Planning Policy Framework* ([link](#)).

7.3 Additional AONB considerations

7.3.1 Additional AONB considerations include:

- Cotswolds AONB Management Plan 2018-2023.⁹
- Cotswolds AONB Landscape Character Assessment.¹⁰
- Cotswolds AONB Landscape Strategy & Guidelines.¹¹
- Conservation Board Position Statements.¹²

8.0 THE MAIN ISSUES

8.1 The planning inspector has identified seven main issues for the planning appeal inquiry:

(1) Whether the site should be developed, having regard to development plan policy regarding development on unallocated sites outside the principal urban area of Cheltenham (this will involve a discussion of housing land supply).

(2) The effect on the landscape, including the AONB.

(3) The effect on highway safety.

(4) The effect on heritage assets.

(5) The need to provide affordable housing / play space provision / ongoing management of site.

(6) The need for educational / library contributions.

(7) The requirement / mechanism for securing highway improvement works / a residential travel plan.

8.2 These main issues are derived from the Council's putative reasons for refusal (PRFR).

8.3 The Conservation Board's input relates primarily relate to main issue (2), although main issues (1) and (4) are also relevant.

9.0 ANALYSIS OF MAIN ISSUE 2 – THE EFFECT ON THE LANDSCAPE INCLUDING THE AONB

9.1 Context

9.1.1 The planning inspector has identified Main Issue 2 as being '*the effect on the landscape, including the AONB*'.

9.1.2 Main Issue 2 derives from the Council's Putative Reason for Refusal (PRFR) 2. PRFR 2 states that the proposed development would constitute major development within Cotswolds AONB¹³ and that it fails to demonstrate the exceptional circumstances or public interest that are required for such development. It states that the development would fail to conserve and

⁹ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan 2018-2023* ([link](#)).

¹⁰ Cotswolds Conservation Board (2015) *Cotswolds AONB Landscape Character Assessment* ([link](#)).

¹¹ Cotswolds Conservation Board (2016) *Cotswolds AONB Landscape Strategy & Guidelines* ([link](#)).

¹² <https://www.cotswoldsaonb.org.uk/our-landscape/position-statements-2/>

¹³ In the context of what is now paragraph 177 and footnote 60 of the NPPF.

enhance landscape and scenic beauty and would result in significant harm. It also states that the proposed mitigation measures are inadequate.

9.1.3 The Board supports this PRFR.

9.1.4 In this section of our Proof of Evidence we address the following issues:

- effects on the natural beauty of the Cotswolds AONB, including:
 - landscape quality;
 - visual effects;
 - tranquillity;
 - dark skies;
 - natural heritage;
 - cultural heritage.
- effects on recreational opportunities;
- the need for the development;
- the scope for developing outside the Cotswolds AONB.
- whether exceptional circumstances apply;
- whether the proposed development would be in the public interest; and
- the ‘tilted balance’ (in favour of granting planning permission).

9.2 Effects on landscape quality

9.2.1 *Sensitivity - Value of the AONB designation*

9.2.1.1 We strongly disagree with the appellant’s assertion that AONBs are of ‘regional’ value.¹⁴

9.2.1.2 Multiple references indicate that AONBs are of national (and even international) value including Government guidance,¹⁵ the Landscapes Review,¹⁶ the Landscape Institute’s Guidelines for Landscape and visual Impact Assessment (GLVIA)¹⁷ and the International Union for the Conservation of Nature (IUCN) worldwide classification of protected landscapes¹⁸.

9.2.2 *Sensitivity - Value of the site*

9.2.2.1 We recognise that consideration should be given to the extent to which the site demonstrates the characteristics and qualities that led to the designation of the area as an AONB. However, we are concerned that the methodology used by the appellant in their Environmental Statement - of assessing individual and, in some cases, relatively minor characteristics – results in the whole being less than the sum of its parts. The main focus should be on *relevant* special qualities, as identified in Chapter 2 of the Cotswolds AONB

¹⁴ For example, in paragraph 6.2.13 of the appellant’s Environmental Statement ([link](#)).

¹⁵ Defra (2017) *Areas of Outstanding Natural Beauty: Landscape Protection and Enhancement* ([link](#)). Page 1 (digital page 2).

¹⁶ Defra (2019) *Landscapes Review Final Report* ([link](#)). Pages 5 and 16.

¹⁷ Landscape Institute and Institute of Environmental Management & Assessment (2013) Guidelines for Landscape and Visual Impact Assessment (GLVIA) – Third Edition. Paragraph 5.21.

¹⁸ <https://www.iucn.org/theme/protected-areas/about/protected-area-categories>

Management Plan¹⁹, and on *relevant* key / representative features, as identified in the Cotswolds AONB Landscape Character Assessment.²⁰

- 9.2.2.2 The site is an integral component of the Cotswold escarpment, which is one of the ‘special qualities’ of the Cotswolds AONB and which forms Landscape Character Type (LCT 2) in the Cotswolds AONB Landscape Character Assessment²¹. As a special quality, the escarpment is one of the key attributes on which the priorities for the area’s conservation, enhancement and management should be based.
- 9.2.2.3 The site is very representative of this LCT. For example, the site consists of the moderately sized, steeply sloping fields of improved pasture, bounded by mature hedgerows, which are characteristic features of the lower escarpment.²² There are no urbanising features within the site to detract from the site’s landscape quality. In fact, the site has remained remarkably unchanged since well before the Cotswolds AONB was designated in 1966. As such, we consider the landscape elements to be in good condition.²³
- 9.2.2.4 The open, undeveloped nature of the site, on the northern slopes of Battledown Hill, which is clearly visible across a large geographical area, contrasts sharply with the neighbouring built development to the north and west of the site. In effect, the site is a headland of un-eroded natural beauty, which:²⁴
- contributes significantly to the ‘*dramatic relief feature and ... backdrop*’²⁵ that the escarpment provides for Cheltenham;
 - provides a striking landform;
 - shows a strong sense of contrast;
 - lends a clear and recognisable sense of place;
 - forms an appealing composition of land cover which can be appreciated from various vantage points and as one passes through area;
 - provides strong aesthetic qualities, particularly in terms of its degree of openness;
 - provides an eye-catching feature.
- 9.2.2.5 The contribution that the site makes to the AONB is reflected in the fact that the Cotswolds AONB boundary was actually extended, in the 1990 AONB boundary review, to include the whole of the site, whereas previously the most westerly field had been excluded.
- 9.2.2.7 We acknowledge that there is built development on several sides of the site. However, none of this built development extends into the site (apart from Oakley Farm itself). The extent to which neighbouring built development influences the site is, therefore, potentially more

¹⁹ Cotswolds Conservation Board (2018) *Cotswolds AONB Management Plan* ([link](#)).

²⁰ Cotswolds Conservation Board (2005) *Cotswolds AONB Landscape Character Assessment* ([link](#)).

²¹ Cotswolds Conservation Board (2005) *Cotswolds AONB Landscape Character Assessment* ([link](#)).

²² This combination of features is explicitly mentioned in the Landscape Character Assessment, both in relation to the landscape character of LCT 2 ([link](#) – digital page 15) and specifically in relation to Landscape Character Area 2D (Escarpment - Cooper’s Hill to Winchcombe) ([link](#) – digital page 20).

²³ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or Areas of Outstanding Natural Beauty in England* ([link](#)). Appendix 1 – example indicator of landscape quality.

²⁴ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or Areas of Outstanding Natural Beauty in England* ([link](#)). Appendix 1 – example indicators of landscape quality and scenic quality.

²⁵ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-2-escarpment-2016.pdf>. Key features.

relevant to the issue of ‘susceptibility to change’, rather than the issue of ‘value’. However, we acknowledge that there is some overlap between the two.

9.2.2.8 The extent of this built development has remained virtually unchanged since before the Cotswolds AONB was designated in 1966 and since the AONB boundary was reviewed and amended in 1990.

9.2.2.10 The only notable change to the extent of the neighbouring built development is where the Oakley Grange development extends into the AONB, just outside the north-eastern corner of the Oakley Farm site. However, this adverse effect has been counter-balanced by the demolition of the most northerly reservoir in the Hewlett’s Reservoir complex and its restoration to a more natural, vegetated landform.

9.2.2.18 When the Oakley Farm site is viewed from locations such as Cleeve Hill, there appears to be a seamless transition between the site and the rest of the AONB. .

9.2.2.21 The low density and well-wooded nature of the built development on Battledown Hill, to the south, means that there is a strong sense of visual connectivity between the site and the AONB landscape to the south.

9.2.2.22 Overall, with regards to the issue of connectivity, we consider that there is ‘*intactness of the landscape in visual, functional and ecological perspectives*’.²⁶

9.2.2.28 Overall, based on the points outlined above, **we consider that the VALUE attached to the landscape receptor is VERY HIGH.**

9.2.3 Sensitivity - Susceptibility to change

9.2.3.1 The high sensitivity of the Cotswold escarpment to development is highlighted in the Cotswolds AONB Landscape Strategy and Guidelines (LSG) for Landscape Character Type 2 (Escarpment)²⁷ and in paragraph 8.3 of the Cheltenham Plan.²⁸ At the site specific level it is also highlighted in Cheltenham Borough Council’s ‘Landscape Character, Sensitivity and Capacity Assessment of Cotswolds AONB within the Cheltenham Borough Administrative Area’.²⁹

9.2.3.9 A large housing development (or even a small one) on this highly sensitive site on the edge of the AONB would impair the quality and character of the landscape. In effect, the newly developed area (and, potentially, any associated mitigation / landscaping) would not merit AONB status. If the AONB boundary was to be reviewed at a future date the new development, it is highly likely that the developed site would be removed from the AONB.

9.2.3.10 The same principle would also apply to the section of the Oakley Grange development that extends into the AONB. As such, there would be a significant, adverse cumulative effect resulting from both the Oakley Grange development and any development on the Oakley

²⁶ Natural England (2011) *Guidance for assessing landscapes for designation as National Park or Areas of Outstanding Natural Beauty in England* ([link](#)). Appendix 1 – example sub-factor of landscape quality.

²⁷ <https://www.cotswoldsaonb.org.uk/wp-content/uploads/2017/07/lct-2-escarpment-2016.pdf>. Landscape Sensitivity, digital page 2.

²⁸ Cheltenham Borough Council (2020) *Cheltenham Plan* ([link](#)).

²⁹ Cheltenham Borough Council (2015) *Landscape Character, Sensitivity and Capacity Assessment of Cotswold AONB within the Cheltenham Borough Administrative Area* ([link 1](#) – report, [link 2](#) - assessment). LCA 7.1 – Oakley Farm Pasture Slopes.

Farm site not meriting AONB status and potentially being removed from the AONB in a future boundary review.

9.2.3.11 Therefore, the site would not be able to accommodate the proposed development without undue consequence.

9.2.3.12 We acknowledge that the neighbouring built development does influence the site to some degree. However, on balance, **we consider that the SUSCEPTIBILITY TO CHANGE would be MEDIUM.**

9.2.4 *Sensitivity - Overall*

9.2.4.1 **We consider the SENSITIVITY of the landscape receptor / site to be HIGH.**

9.2.5 *Magnitude of effect - Size / scale of landscape effect*

9.2.5.1 The scale / extent of the proposed development (250 dwellings on a site covering 15ha³⁰) is very large in the context of the Cotswolds AONB, particularly with regards to a 'windfall' development in the highly sensitive landscape of the Cotswold escarpment. As far as we are aware, a housing development of this size / scale, on the Cotswold escarpment within the Cotswolds AONB, would be unprecedented.

9.2.5.2 This scale / extent of development is particularly significant in the context of Cheltenham Borough, which contains a relatively small area of the Cotswolds AONB.

9.2.5.3 We acknowledge that the development proposal includes retaining approximately the southern third of the site as 'open space'. However, this part of the site would have a peri-urban parkland character, rather than a countryside character. The large amount of tree planting in this area would also exacerbate the loss of the open character of the site, which makes it a prominent feature in the wider landscape.

9.2.5.4 The open space provision would not be sufficient to maintain many of the perceptual characteristics that add to the value of the site including the strong sense of contrast that the site currently provides as a backdrop to the neighbouring urban development.

9.2.5.5 Fundamentally, the development would have a significant adverse effect on the character of the site. As outlined earlier, with regards to susceptibility to change, above, the site would no longer merit its AONB status.

9.2.5.6 Overall, based on the points outlined above, **we consider that the SIZE / SCALE OF CHANGE in the landscape would be MEDIUM.**

9.2.6 *Magnitude – Geographical Extent*

9.2.6.1 The effect of the proposed development would be felt over a significant geographical area, including by receptors on Cleeve Common, approximately 3km away, and on Nottingham Hill, nearly 6km away.

9.2.6.2 Overall, **we consider that the GEOGRAPHICAL EXTENT would be HIGH.**

9.2.7 *Magnitude – Duration and reversibility*

³⁰ Of which approximately 10+ hectares would constitute housing and associated infrastructure and landscaping.

9.2.7.1 The duration of the landscape effects would be long term (i.e. permanent) and not reversible, except for the possibility of changing the landscaping in the southern third of the site.

9.2.8 *Magnitude – Overall*

9.2.8.1 Overall, based on the points outlined above, **we consider that the MAGNITUDE OF LANDSCAPE EFFECT to be MEDIUM / HIGH.**

9.2.9 *Significance of Effect*

9.2.9.1 As outlined above, we consider the:

- sensitivity of landscape receptors to the proposed development to be high; and
- magnitude of landscape effect to be medium / high.

9.2.9.2 Combining these two elements together, **we consider the SIGNIFICANCE OF LANDSCAPE EFFECTS to be at least MODERATE / MAJOR.**

9.3 **Visual effects**

9.3.1 We consider that the applicant's evidence base underplays the significance of the adverse visual effects of the proposed development. For example, the site is highly visible from multiple, publically accessible viewpoints and, as outlined above, the proposed development would significantly change the character of the site.

9.3.2 For the purposes of this Proof of Evidence, we focus on the visual effects for receptors at the following viewpoints:

1. The Cotswold Way National Trail on Cleeve Common.
2. The Cotswold Way National Trail on the Bill Smylie Reserve.
3. Locations on Cleeve Common other than the Cotswold Way.
4. The public rights of way on Aggs Hill, to the east of the Oakley Farm site, in the vicinity of Northfield Farm.
5. The public right of way and access land on Nottingham Hill.
6. The public right of way on the western boundary of the Oakley Farm site.
7. The Sainsbury's car park.

9.3.3 Photographs of the views from these viewpoints are provided in Appendix 6.

9.3.4 The Cotswold Way and Cleeve Common provide a nationally and regionally significant recreational resource, respectively, which means that they have a relatively high value and high susceptibility to change.

9.3.5 Most of these viewpoints are in Landscape Character Type (LCT) 2 (Escarpment). The escarpment, including the views from and to it, is one of the special qualities of the Cotswolds AONB.

9.3.6 Some of the viewpoints (such as on Cleeve Common) are located in LCT 7 (High Wold). The High Wold, including the panoramic views that are experienced on it, is another of the special qualities of the Cotswolds AONB.

9.3.7 For most of these viewpoints, the site occupies a relatively small part of a wider panoramic view. However, as outlined earlier, the prominence of the site in the landscape far exceeds its size.

- 9.3.8 The southern third of the site would not be developed for housing. However, the new housing would still be highly visible from all directions. Furthermore, the retained, undeveloped land would just be seen as a relatively narrow strip, rather than the relatively wide headland of un-eroded natural beauty that the site provides at present.
- 9.3.9 Given the elevated position of many key viewpoints, visual mitigation such as the planting / enhancement of hedgerows and trees would do little to reduce the visual impacts of the development over time. As such, the adverse effects would be permanent and irreversible.
- 9.3.10 The visual effects of the proposed development, in relation to receptors at key viewpoints, are summarised in Table 2 below. The multiplicity of major and moderate adverse effects adds to their cumulative significance.

Table 2. Significance of visual effects

Viewpoint	Sensitivity of visual receptor	Magnitude of visual effect	Nature of visual effect	Overall significance of visual effect
1. Cotswold Way (Cleeve Common)	Very high	Medium	Adverse	Major adverse
2. Cotswold Way (Bill Smylie Reserve)	Very high	Medium	Adverse	Major adverse
3. Cleeve Common	Very high	Low	Adverse	Moderate adverse
4. Aggs Hill	High	Low	Adverse	Moderate adverse
5. Nottingham Hill	High	Low	Adverse	Moderate adverse
6. Site – western boundary	High	High	Adverse	Major adverse
7. Sainsbury's	Medium / Low	Medium	Adverse	Moderate adverse

9.4 Effects on tranquillity

- 9.4.1 We acknowledge that the tranquillity of this section of the Cotswolds AONB is not as high as some of the more remote areas within the AONB. This is because of the visual and aural disturbance associated with the nearby urban development Cheltenham. However, the undeveloped nature of the site helps to ensure that the tranquillity of the AONB in this locality is not further eroded. Even where the tranquillity of the AONB is relatively low, the aspiration should be to conserve and enhance tranquillity.
- 9.4.2 As outlined in the Board's Tranquillity Position Statement, increase in traffic movements on roads in and directly adjacent to the AONB can have a significant impact on the tranquillity of the Cotswolds AONB.³¹
- 9.4.3 Analysis of the appellant's AM (i.e. morning) and PM (i.e. afternoon) 'peak hour link flows' data indicates that there would be a 19% increase in AM peak hour traffic on Harp Hill west of the proposed access road and a 21% increase in PM peak hour traffic. This a significant increase and well above the 10% 'rule of thumb' threshold that is specified in the Board's Tranquillity Position Statement.³²

³¹ Cotswolds Conservation Board (2019) *Tranquillity Position Statement* ([link](#)). Section 4.5.

³² As outlined in the Tranquillity Position Statement, this 'rule of thumb' is based on the 'rules of thumb' outlined in the Institute of Environmental Assessment's *'Guidelines for the Environmental Assessment of Road Traffic'*.

9.5 Effects on dark skies

- 9.5.1 We acknowledge that the dark skies of this section of the Cotswolds AONB adversely affected by light pollution to a larger degree than more remote parts of the AONB. This is because of the visual and aural disturbance associated with the nearby urban development Cheltenham. However, the undeveloped nature of the site helps to ensure that impacts associated with light pollution are not further exacerbated. Even where the impacts of light pollution are relatively low, the aspiration should be to reduce light pollution.
- 9.5.2 The appellant's supporting information (including the Environmental Statement and Planning Statement) does not appear to explicitly address this issue. As such, there is no evidence to indicate that the proposed development would comply with relevant guidance.
- 9.5.3 However, a new development of 250 dwellings within the AONB on the lower slopes of the Cotswold escarpment would inevitably further exacerbate the issue of light pollution. This is an important consideration given that a key aspiration for the AONB is to avoid, minimise and reduce light pollution in order to enhance the dark skies of the AONB.

9.6 Effects on natural heritage

- 9.6.1 We acknowledge that the proposed development has the potential to deliver some biodiversity benefits in the longer term, particularly with regards to tree planting.
- 9.6.2 However, it should be noted that some of the proposed measures are, in effect, primarily mitigation for losses caused by the proposed development (such as loss of hedgerows), which reduces their net-gain value. In addition, as outlined above, the extent of the proposed tree planting would adversely affect the relatively open character of the site and the associated value of the site with regards to landscape character (particularly, when the adverse effects of the proposed development are also taken into account)
- 9.6.3 Adverse effects on the landscape and scenic beauty of the Cotswolds AONB should be given greater weight than any beneficial effects for biodiversity.

9.7 Effects on cultural heritage

- 9.7.1 We consider that the designated heritage assets associated with Hewlett's Reservoir make an important contribution to the cultural heritage of the Cotswolds AONB and to the special quality of 'significant historic associations'.
- 9.7.2 We support the Council's assertion, in Reason for Refusal 4 and in their statement of case, that the proposed development would have an unacceptable harmful impact on the setting of the heritage assets within Hewlett's Reservoir.
- 9.7.3 The Grade II listed pavilion at Hewlett's Reservoir would be particularly adversely affected by the partial loss of the 'countryside' backdrop that the Oakley Farm site provides, when viewed from the escarpment to the east.
- 9.7.4 Harmful impacts would include the need for increased security measures on the western boundary of the Hewlett's Reservoir complex.
- 9.7.5 Another important cultural heritage asset is the ridge and furrow field patterns that are found across a large proportion of the Oakley Farm Site. Ridge and furrow is explicitly identified as one of the special qualities of the Cotswolds AONB as a component part of the area's

'significant historic associations'. The proposed built development would result in the permanent loss of much of this important asset.

- 9.7.6 The impacts on these heritage assets should be considered both in their own right and in terms of their contribution to the natural beauty of the AONB.

9.8 Effects on recreational opportunities

- 9.8.1 We consider that any potential recreational and public access benefits provided by the development are far outweighed by the adverse impacts of the development on the AONB.
- 9.8.2 We strongly disagree with the appellant's assertion, in their statement of case (paragraph 8.29) that the provision of public access on the undeveloped part of the site will relieve pressure on other areas of the Cotswolds AONB. Indeed, the addition of several hundred new residents in this location is only likely to increase pressure on the AONB.
- 9.8.3 We acknowledge that there is currently no physical right of access to the site. However, there is 'proximate access' whereby the site can be experienced on its boundary, where a close up visual experience of the site (and long distance views to the scarp beyond) is available.
- 9.8.4 The appellant asserts, in their statement of case (paragraph 8.29) that development will improve access to the countryside. However, we consider that the open space that will be publically accessible would be more akin to a peri-urban park than to 'countryside'.
- 9.8.5 One of the supposed benefits of this open space provision is the opportunity to experience views of the Cotswolds AONB. However, the amount of tree planting that is proposed would restrict these views to both the north (as a result of the proposed 'tree belt') and to the east (as a result of the proposed tree planting along the access road).

9.9 The need for the development

- 9.9.1 The Government's Planning Practice Guidance (PPG) makes it clear that the NPPF's policies for protecting AONBs may mean that it is not possible to meet objectively assessed needs (OAN) for development in full.³³ Therefore, any evidence that the appellant may provide regarding OAN does not necessarily provide evidence of exceptional need for this particular development in this particular location.
- 9.9.2 The appellant's statement of case (for example, paragraph 8.7) emphasises the current shortfall in housing land supply. However, a short-term shortfall in housing land supply does not necessarily mean that the housing requirements set out in the JCS will not be met. In this regard, we note the Council's assertion, in their statement of case (paragraph 5.18), that the mechanisms are in place to ensure that housing needs are met during the plan period through the plan-led approach.
- 9.9.3 The proposed development clearly relates to needs arising outside the Cotswolds AONB (in particular, needs arising within the section of Cheltenham Borough that lies outside the AONB). As such it would not be compatible with the PPG, which states that AONBs are unlikely to be suitable areas for accommodating unmet needs from adjoining (non-designated) areas.³⁴ Nor would it be compatible with the Cotswolds AONB Management Plan

³³ <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 041.

³⁴ <https://www.gov.uk/guidance/natural-environment#landscape>. Paragraph 041.

(particularly Policy CE12) or, by extension, the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS).

- 9.9.4 Correspondence between the Board and the Council has clarified that there are approximately 250 dwellings within the Cheltenham Borough section of the Cotswolds AONB. The proposed development would therefore double the amount of housing within this section of the Cotswolds AONB, which would be completely disproportionate.
- 9.9.5 The Board's calculations indicate that the number of dwellings in the Cheltenham Borough section of the Cotswolds AONB has already increased by at least 20% since the start of the Cheltenham Plan period (i.e. since 2011), from approximately 200 dwellings to approximately 250 dwellings.
- 9.9.6 Proportionately, even without factoring in the constraint of the AONB designation, the Cotswolds AONB has already accommodated more than its proportionate share of the new housing required in Cheltenham Borough during the Cheltenham Plan period.
- 9.9.7 Even if it is considered that there is exceptional need for the proposed development, case law has clarified that this does not necessarily mean that exceptional circumstances apply.³⁵
- 9.9.8 The appellant's statement of case (paragraph 8.21) states that failing to meet housing needs will have a detrimental effect on the economy. However, maintaining the natural beauty of the Cotswolds AONB has a beneficial effect on the economy.³⁶

9.10 The scope for developing outside the Cotswolds AONB

- 9.10.1 Case law has clarified that no permission should be given for major development in AONBs save to the extent that, inter alia, the development met a need that could not be addressed elsewhere or in some other way.³⁷
- 9.10.2 We agree with the Council's observation, in their statement of case (paragraph 5.16), that the applicant has not explored fully the cost or scope for developing outside of the AONB or meeting the need for housing in some other way.
- 9.10.3 The appellant's statement of case (paragraph 8.26) states that if development does not take place within the AONB adjacent to the built up area, there will need to be further incursions in to the Green Belt, or housing would need to be delivered beyond the Green Belt in locations more distant from Cheltenham.
- 9.10.4 The reference to incursions into the Green Belt implies that the AONB is a more suitable location for the proposed development than the Green Belt. However, this is not necessarily the case, particularly given that the appellant has accepted that the proposed development constitutes major development in an AONB.
- 9.10.5 With regards to the option of housing being delivered in locations more distant from Cheltenham, the Council, in their statement of case (paragraph 5.17), advises that it has long been recognised that Gloucester and Cheltenham cannot wholly meet their development requirements within their administrative boundaries.

³⁵ R (Mevagissey Parish Council) v Cornwall Council [2013] EHC 3684 (Admin) ([link](#)). Paragraph 51.

³⁶ Cotswolds Conservation Board (2013) *Assessment of the economic value of the Cotswolds AONB* ([link](#)). Section 2.4.

³⁷ R (Advearse) v Dorset Council v Hallam Land Management Ltd [2020] EWHC 807 ([link](#)). Paragraph 35.

- 9.10.6 As such, we consider that the option of locating the proposed development further afield would be a more suitable option than locating the development within the AONB, particularly for a development of this scale and extent.
- 9.10.7 We also support the case being made by the Council (statement of case, paragraph 5.19) that any requirement for additional housing sites which may arise within and beyond the plan period, should be identified as part of the plan-led approach, having regard to a robust evidence base, public consultation in the public interest and the scrutiny in site selection which arises from the plan-led process.
- 9.10.8 Overall, we do not consider that the appellant has demonstrated exceptional circumstances with regards to this issue.

9.11 Exceptional circumstances

9.11.1 Based on the information outlined above, we consider that:

- there are no exceptional circumstances;
- there is scope for meeting the need elsewhere;
- there would be significant detrimental effects that would outweigh the potential benefits of the scheme.

9.11.2 For these reasons, we do not consider that exceptional circumstances apply.

9.12 Public interest

- 9.12.1 When considering whether the proposed development would be in the public interest it is important to note the value afforded to the AONB designation, as outlined earlier in this Proof of Evidence.
- 9.12.2 In addition, the following points merit consideration.
- 9.12.3 The Government has stated, in its response to the local housing need proposals in ‘Changes to the current planning system’, that meeting housing needs is never a reason to cause unacceptable harm to AONBs.³⁸ The Government has also stated, when launching the ‘Planning for the Future’ White Paper, that our AONBs will be protected as the places, views and landscapes we cherish most and passed on to the next generation.³⁹ Furthermore, as outlined in the Government’s 25 Year Environment Plan, the Government has set a goal / policy to conserve and enhance the beauty of our landscapes.⁴⁰
- 9.12.4 At the local level, the Cheltenham Plan states that the Council considers it particularly important to protect the scarp (on which the proposed development would be located) as the

³⁸ <https://www.gov.uk/government/consultations/changes-to-the-current-planning-system/outcome/government-response-to-the-local-housing-need-proposals-in-changes-to-the-current-planning-system>

³⁹ Statement by the Secretary of State for Housing, Communities and Local Government, when launching the consultation on the Planning White Paper in August 2020 ([link](#)).

⁴⁰ The Government’s 25 Year Environment Plan ([link](#)) aspires for us to be the first generation to leave the environment in a better state than we found it. As part of this aspiration, it proposes to embed an ‘environmental net gain’ principle for development. This includes setting a goal that ‘*we will conserve and enhance the beauty of our natural environment ... by ... safeguarding and enhancing the beauty of our natural scenery and improving its environmental value while being sensitive to considerations of its heritage*’.

dominant feature of Cheltenham's setting and is concerned at the cumulative effect of even small-scale development and of development in new locations within the AONB.

- 9.12.5 Taking account of the above points, we consider that any potential public benefits of the proposed development would be far outweighed by the benefits of retaining the site as an undeveloped component of the Cotswolds AONB.

9.13 Tilted balance

- 9.13.1 Where there is a shortfall in housing land supply, paragraph 11d of the NPPF sets a presumption in favour of granting planning permission (known as the 'tilted balance'). However, it also identifies a number of exemptions to this tilted balance, including where the application of policies in the NPPF that protect AONBs and designated heritage assets *'provides a clear reason for refusing the development proposed'*.
- 9.13.2 Case law has clarified that limb (i) of paragraph 11d is applied by taking into account only those factors which fall within the ambit of the relevant 'Footnote 6' policies and that development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i).⁴¹
- 9.13.3 Given the detrimental impacts outlined above, we consider that the application of the relevant Footnote 6 policies *does* provide a clear reason for refusal, with regards to both: (i) landscape and scenic beauty; and (ii) cultural heritage. The fact that the Council's putative reasons for refusal, adds further weight to not applying the tilted balance.
- 9.13.4 For these reasons, we do not consider that the tilted balance should be applied in this instance.

10.0 ANALYSIS OF MAIN ISSUE 1 - WHETHER THE SITE SHOULD BE DEVELOPED

- 10.1 We have addressed this issue in relation to Main Issue 2, in the context of whether exceptional circumstances apply.

11.0 ANALYSIS OF MAIN ISSUE 3 – THE EFFECT ON HERITAGE ASSETS

- 11.1 We have addressed this issue in relation to Main Issue 2, with regards to the contribution that the cultural heritage of the locality makes to the natural beauty of the Cotswolds AONB. In particular, we have addressed the potential adverse impacts on the designated assets of the Hewlett's Reservoir complex and on the ridge and furrow field patterns.

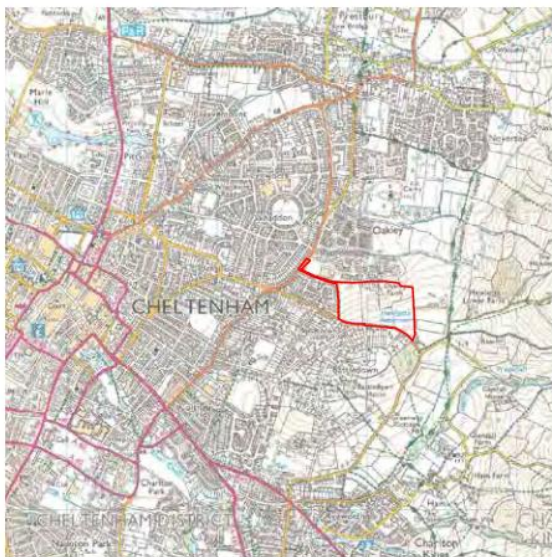
12.0 CONCLUSIONS – OVERALL PLANNING BALANCE

- 12.1 Overall, we consider that the potential beneficial effects of the scheme are far outweighed by the adverse effects. As such, we recommend that the appeal should be dismissed.

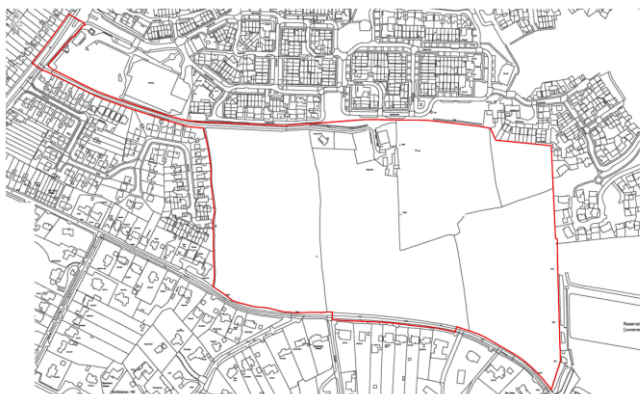
⁴¹ Monkhill Ltd v Secretary of State for Housing, Communities and Local Government & Anor (Rev 1) [2021] EWCA Civ 74 ([link](#)).

APPENDIX 1. SITE LOCATION, SITE BOUNDARY AND COTSWOLD AONB BOUNDARY

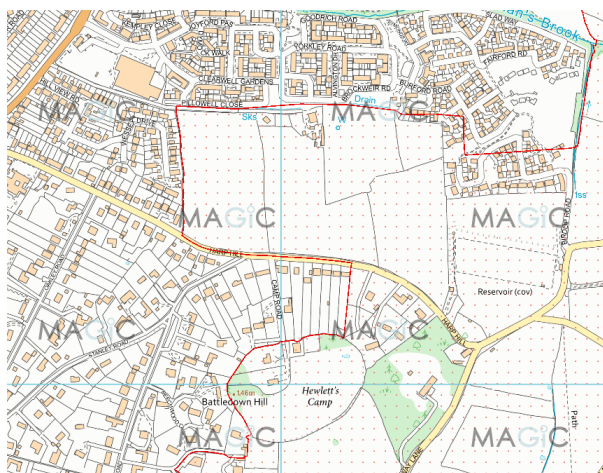
Site Location (site boundary shown in red)



Site Boundary (site boundary shown in red)



Cotswolds AONB Boundary (AONB boundary shown in red)⁴²



⁴² Extract from the Defra MAGIC website.