

## Gina Parle

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**From:** Gina Parle on behalf of Peter Frampton  
**Sent:** 10 September 2020 16:40  
**To:** Emma.Pickernell@cheltenham.gov.uk  
**Cc:** Gina Parle  
**Subject:** Application Ref: 20/00683/OUT - Oakhurst Rise, Cheltenham  
**Attachments:** TN13 Response to Charlton Manor vf.pdf

Our ref: PJF/gp/PF/10093

Dear Emma

**Town and Country Planning Act 1990**  
**Application Ref: 20/00683/OUT**  
**Oakhurst Rise, Cheltenham**

Further to your email dated 7<sup>th</sup> September [12.15], and in response to your request, please find attached the Applicants' formal response to the objection (dated 4<sup>th</sup> September) raised by the occupiers of Charlton Manor.

In response to the comments made by the occupiers of Charlton Manor, the Applicant is now able to confirm that the existing pond on the site can be retained in the development without impacts upon the proposed tree belt or the housing layout.

I welcome confirmation of safe receipt.

Kind regards

Peter J Frampton  
BSc (Hons), TP, MRICS, MRTPI

Attach: TN13 Response to Charlton Manor vf

CC: Ian Kirby



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# Technical Briefing Note

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Project: Land at Oakhurst Rise, Cheltenham

## Technical Briefing Note TN13: Response to Charlton Manor Comments dated 04 September 2020

Date: 09 September 2020

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### 1 INTRODUCTION

- 1.1 Aspect Ecology has been appointed by William Morrison (Cheltenham) Ltd. to advise on ecological matters relating to the site at Land Adjacent to Oakhurst Rise, Cheltenham. The site is proposed for residential development and associated landscape enhancements.
- 1.2 A letter from Charlton Manor dated 04 September 2020 has been submitted to Cheltenham Borough Council with comments relating to the ecology at the site. Aspect Ecology has been asked to review and respond to this correspondence. The comments are addressed in the same sequence that they occur within the letter and have been reproduced below for ease of reference.

### 2 COMMENTS

- 2.1 Aspect Ecology has numbered the comments for ease of reference:

- 2.2 **Comment 1:**

*"It is truly regrettable that the annual hay cut of the field has been cancelled (according to the contractor who was scheduled to cut it in early July, "the developers' ecologists need to do more work"). Such a delicate ecosystem is easy to undermine, and it is difficult to believe claims that the future of the site should be trusted to those wishing to profit from the land, when there is scant evidence the biodiversity that exists today is being protected under their stewardship".*

- 2.3 A further botanical survey<sup>1</sup> of the grassland was undertaken by Aspect Ecology following a submission made to the Council by Friends of Charlton Kings, in order to ensure the Cheltenham Borough Council were provided with the most up to date information. To benefit the botanical survey, so as to aid in the identification of species and provide further confidence in the survey results, cutting of the grassland was held back. The cutting of the grassland was further placed on hold to benefit the Gloucestershire Wildlife Trust and the County Ecologist whilst undertaking their own walkover and assessment of the grassland.
- 2.4 With this survey and assessment work now complete, the annual hay cut of the grassland has been re-scheduled for the near future. A minor delay to the cutting of the grass poses no threat to the wellbeing of the grassland ecosystem.

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<sup>1</sup> Technical Briefing Note TN09: Results of Botanical and NVC Survey

## 2.5 **Comment 2:**

*“With respect to the repeated surveys of the site in July and August (reptiles and grassland), it is regrettable that nothing has been done at the appropriate time of year, since 2016 when this site was first proposed. Any such surveys might have captured its full ecological value. Their absence speaks volumes, as the planning inspector noted in 2019”.*

2.6 A botanical survey of the grassland was undertaken in July 2019, whilst other surveys of the grassland have been undertaken in September 2016, and August 2020 (see section 2.2 of Aspect Ecology’s Ecological Appraisal dated April 2020). The optimal period for neutral grassland surveys is from June to July, with Aspect’s 2019 survey falling within this window. Further surveys in differing months would capture species visible at different times of year. It should be borne in mind that the purpose of the surveys is not to conduct a research project on the grassland but simply to adequately define the value of the grassland to inform a planning decision. Hence, no more than an appropriate level of survey is required for this purpose.

2.7 In relation to reptiles, survey work was undertaken between July and August 2019. While these months may not be optimal in nature for standard survey visits, as temperatures can on occasion be too warm, if adjustments are made to the methodologies employed to take account of conditions e.g. timing of surveys visits to the early morning or to cooler days, then an effective survey can be undertaken. This approach accords with relevant guidance<sup>2</sup>. Such adjustments were made for the 2019 reptile survey on site and as a result it was effective at recording and defining the reptile interest present. This approach employed is discussed in more detail at paragraph 2.4.4 of Aspect Ecology’s Ecological Appraisal dated May 2020.

2.8 Accordingly, all survey work has been conducted within appropriate survey windows. The Planning Inspector in 2019 made reference that *“there is no countervailing evidence to indicate a greater presence of reptiles on the site”*. Accordingly, the surveys are of an appropriate level to inform a planning decision.

## 2.9 **Comment 3:**

*“In particular, the Aspect survey in 2020 returned a similar count to the Bioscan survey done at the same time of year in support of CBC’s case at appeal in 2019 (12 vs 14 grassland species, July /August). When the meadow is in flower, a very different result might have been evident; Bioscan’s principal ecologist recorded 21 species and discounted a further 4-5 found, photographed and GPS recorded by non specialists, as unproven”.*

2.10 As discussed above, the level of survey carried out by Aspect Ecology is appropriate to inform a planning application. It is necessary to provide no more than an appropriate level of information to enable an informed planning decision to be made. This level of information has been provided.

## 2.11 **Comment 4:**

*“The county ecologist states only 43% of the existing grassland will be retained, which sits uncomfortably with statements that ‘new wildflower meadow’ will be created. As is evident from photos that have already been submitted, the retained grassland is already a wildflower meadow so no ‘new’ creation is possible. The meadow flowers between April and June but has never been surveyed at that time (other than by Bioscan). Cowslips, vetches, woodrush, pignut, trefoils,*

<sup>2</sup> Froglife Advice Sheet 10: Reptile Survey – An introduction to planning, conducting and interpreting surveys for snake and lizard conservation.

*various buttercups and cuckoo flower predominate (The protected English bluebells, photos taken 3 May 2020, can be found across the field, including on the proposed site of the driveways for houses 22-28 and across the wider site of houses 11-21), not, as Aspect claim, in the hedgerows)*".

2.12 We have clarified that the grassland on the site will be retained and enhanced (not created) within the submitted 'Technical Briefing Note TN10: Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation Tool', and this is acknowledged by Gloucestershire Wildlife Trust in their correspondence dated 01 September 2020. The survey work has determined that the herb interest in the grassland is infrequent in nature comprising typically only 5 – 10% of the sward, with the sward dominated by grasses which make up 90 - 95% of the cover. Accordingly, the sward is in a significantly sub-optimal state. While grassland area will be lost to the proposal, the opportunity is present to restore the retained area of grassland to a herb rich sward. The Gloucestershire Wildlife Trust has confirmed the enhancement of the grassland habitat would benefit the ecological network<sup>3</sup>. A Framework Management Plan (see Technical Briefing Note TN12) of how this will be achieved has been agreed with Gloucestershire Wildlife Trust.

2.13 In particular, as Aspect Ecology's letter to Gloucestershire Wildlife Trust dated 07 August 2020 sets out, the proposals will:

- **Secure future:** The future of the grassland will be secured and protected such that the risk that its interest would be lost through inappropriate management e.g. application of herbicide, fertilizer or re-seeding would be removed;
- **Restoration:** Positive work would be carried out to restore the grassland interest to that of a meadow of high conservation value e.g. MG5. The detail of how this would be achieved would be the subject of a specific method statement, but could include the scarification of the sward to expose the underlying seedbank and soil and the import of green hay from a suitable local donor meadow if one is available or alternatively the spreading of an appropriate native wildflower seed mix with a large Yellow Rattle component to reduce the vigour of coarse grasses;
- **Conservation management:** Favourable grassland conservation management would be secured under the proposals which would be prescribed within a formal management plan. This would then be actioned to ensure the management of the grassland is optimal to maintain the restored botanical interest;
- **Long term funding:** Funding to manage the meadow would be secured under the proposals. This would most likely arise via a service charge on properties such that an assured source of funding for conservation management of the grassland would be available for the life of the development.

2.14 At the present there is no conservation management of the habitats on site. In the absence of the proposals, the prospects for restoration of the grassland are very low as are the prospects for securing the introduction of positive conservation management of the habitats. The proposed development provides an opportunity to protect the retained grassland and secure an appropriate management plan to maximise its biodiversity potential. Indeed, at the present time, there is the potential for the existing grassland interest to be lost, should for example the management of the grassland be altered, or herbicide or fertilizer applications be applied, or the sward re-seeded. By contrast, the proposed development provides the only opportunity to protect and secure the future of the retained grassland alongside an appropriate management plan to maximise its biodiversity potential.

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<sup>3</sup> Gloucestershire Wildlife Trust letter to Cheltenham Borough Council on 07 August 2020.

**2.15 Comment 5:**

*“There are repeated statements that the meadow is mown but not baled (although Aspect's evidence to the 2019 planning appeal stated the soil had been compacted by extensive use of machinery - that was also untrue). The field was baled the day before the inspector visited last year (photo below), and has been cut annually for as long as residents can remember. Hay is used by St Edwards School for the school farm, and is of sufficient quality to be usable by the Riding for the Disabled charity (they struggle to source organic hay locally and the school donate their surplus). Plenty of photos are available on social media”.*

2.16 The grassland at the site was baled for the first time in 2019. Prior to this date arisings were left in situ. Although the hay may be of sufficient quality for the school farm, their requirement for hay is very low and accordingly we are informed that this is typically purchased each year. We are also informed that there is no intention in 2020 to bale the hay.

2.17 Such management where the arisings are left in situ is not beneficial to the grassland botanical interests and may be contributing to the currently sub-optimal nature (particularly low herb cover) of the meadow. By contrast, under the proposals an optimal management regime would be secured for the retained areas of grassland, which will include hay cuts with the arising hay baled and removed from site. This would be beneficial for the grassland botanical interest.

**2.18 Comment 6:**

*“Various ecology statements now note that the grassland will be leased to the school for their future use. It is unclear how ecologists are qualified to make that assertion. As a primary school St Edwards does not allow children on uncut grass given the prevalence of deer ticks. In the 10 years our children have been pupils at the school, they have kept off the main wildflower area and used the walking paths cut elsewhere across the site for forest school, nature walks and more”.*

2.19 The retained grassland east of the development will be protected in perpetuity, whilst management will be sympathetic to its recent designation as a Gloucestershire Local Wildlife Site (LWS) on the grounds of 'Value to Learning'. An outline of the optimal management of the grassland has been set out in a Framework Management Plan that has been agreed with Gloucestershire Wildlife Trust. A full detailed management plan based on the agreed Framework will be secured by condition. Conservation management, enacted under the plan, will considerably enhance the grassland's ecological interests such that its biodiversity interest features will become of considerably more interest for learning, hence furthering the criterion for which the LWS is designated.

**2.20 Comment 7:**

*“There is a conflict between school use and biodiversity protection (as well as child protection, given the claimed access for residents of the new estate) - which is going to take primacy? And why should the tax payer fund (through S106 payment or otherwise) the maintenance of land that is going to be retained for the sole use of a private school”?*

2.21 Use for education/learning and protection for biodiversity are compatible, as long as managed in the appropriate way. How this will be achieved will be set out in the full Management Plan for the grassland which will be secured by way of a planning condition. When enhanced, the meadow will provide a more accessible (through increased botanical diversity being more obviously apparent) resource for biodiversity teaching e.g. practical classes in plant taxonomy, nature drawing, countryside management, moth trapping, beetle collecting etc.

2.22 In terms of child protection, there will be no access to the grassland by new residents. All ecological management costs will be financed from the development scheme. No costs will fall to the tax payer.

2.23 **Comment 8:**

*Aspect state that the 'scrub' under the ice house is to be retained in their biodiversity metric, but elsewhere in the application it states that the scrub will be removed as part of the condition to improve the ice house. Which is it?*

2.24 Tree Group 3003 on the ice house is shown as retained on the revised Tree Protection Plan Drawing no. 38-1036.03-F (19 May 2020). Accordingly, this tree group is recorded as retained within the biodiversity metric<sup>4</sup>. The retention of the tree group is acknowledged in the 'Heritage Impact Assessment' April 2020 which states at paragraph 4.7 that *"specifically, it is proposed to undertake selective clearance of scrub, but retaining the mature trees, thereby better revealing the icehouse mound"*. Accordingly, only minor tidying of the scrub around the ice house is proposed. It is not necessary to register such a small area of habitat change within the biodiversity metric as it has no material effect on biodiversity outcomes.

2.25 **Comment 9:**

*"The most recent county ecology statement notes that mature trees will be removed above the badger sett, including ash and sycamore. This area of woodland is described as 'scrub' in the Aspect biodiversity metric rather than hedgerow or woodland, and the removal of the trees is not given comment in the FLAC tree report. Is the data is being used selectively to pass policy tests, rather than objectively to do the right thing by the site and the planning committee"?*

2.26 The DEFRA calculation tool has been completed in accordance with the relevant user guide<sup>5</sup> and technical supplement<sup>6</sup>, and rationale for category selections has been set out clearly within Aspect Ecology's Technical Note TN10 'Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation tool'.

2.27 The FLAC tree report describes the trees under reference Tree Group 3004 as *"Cluster of slender upright principal trees comprising ash and sycamore with a scrubby understorey of other species. Quite dense, no management. Low arboricultural merit"*. They are graded as C category and their removal acknowledged in the tree schedule.

2.28 The data is therefore transparently presented and is objectively utilised in the relevant assessments.

2.29 **Comment 10:**

*"The county ecologist states that mature ash "will be lost" in the next decade to ash dieback. This is unreasonable. Any mature tree could become diseased, but on that basis no tree merits protection, contrary to NPPF guidance. Natural England research indicates that hedgerow ash*

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<sup>4</sup> it is coded as scrub in the metric as there is no category in the metric available for trees

<sup>5</sup> Natural England (2019) The Biodiversity Metric 2.0L auditing and accounting for biodiversity: User Guide (Beta version)

<sup>6</sup> Natural England (2019) The Biodiversity Metric 2.0L auditing and accounting for biodiversity: Technical Supplement (Beta version)



*trees appear to have a level of immunity to ash dieback, and therefore have a particular biodiversity importance”.*

2.30 The County Ecologist comments that *“there is a good chance that the ash will be lost to ash dieback disease in the coming decade even if the development does not go ahead”*. Hence, the comment from the County Ecologist is in fact qualified. Given progress of Ash dieback across the country at the present time, this comment appears reasoned in nature and hence is appropriate.

2.31 **Comment 11:**

*“There appears to be conflict between the drainage strategy below ground and the tree planting above ground (namely there are claims to an unbroken new tree belt, without explanation as to how trees can be planted over a main drain). This affects the biodiversity metrics, the claimed screening for a Grade 2\* listed building, and the claimed flood protection to the wider River Chelt flood plain”.*

2.32 The project engineer has advised that it is standard practice, practical and feasible to plant so that the drainage can be implemented directly below or just to the side of the trees, without causing any harm either to the trees or the drains. The proposed drainage within the tree belt will be installed in line with standard installation methods for this situation (as approved for use by Severn Trent Water), including but not limited to, the establishment of appropriate root barriers and the use of an enhanced pipework specification.

2.33 **Comment 12:**

*“The county ecologist states that the pond at the top of the site will be lost to the development, counter to statements elsewhere in the proposal. Given the pond is spring fed (and has been on Ordnance Survey maps since at least 1836), where is that water going to go”?*

2.34 Loss of the pond had been presumed as it is not shown as retained on the submission plans. However, it is noted that the location of the pond is not to be developed. Accordingly, retention would appear to be possible. Accordingly, further consideration has been given by the applicant to this comment and it is now confirmed that the existing pond can be retained and that this retention could be secured by way of a planning condition. As the pond has been confirmed for retention, this will be beneficial to the biodiversity metric and management of this feature will be included within the management plan secured by planning condition. The project engineer has confirmed that the retention of the pond would have no impact on the storm water drainage strategy.

2.35 **Comment 13:**

*“Why is there no comment made on the loss of nearly 30% of an 150+ year old important hedgerow? It is inconceivable that this habitat could be restored or replaced within a 15 year window. Risks to any claimed new habitat include climate change affecting the survival of new planting (drought and floods have killed off any new planting across the Battledown Hill since 2017, other than non native species), the impact of the roe and muntjac deer population in residence, the steep terrain precluding water retention and the dense clay subsoil noted in the Simpson report on drainage”.*

2.36 Loss of parts of the existing mature hedgerows are considered at section 4.5 of Aspect Ecology’s Ecological Appraisal dated May 2020. In respect of the dividing hedgerow within the site (H1),

the area of loss is in fact 23.%<sup>7</sup> rather than the suggested 30%. The majority of the site hedgerows will be retained and protected, while losses will be compensated for by new native planting to bolster existing hedgerows alongside new native hedgerow planting, and the provision of a substantial woodland belt. The dividing hedgerow within the site is treated in the biodiversity metric as 'woodland' and accordingly its established value has been acknowledged.

2.37 The establishment of new habitat features will be monitored, with safeguards used as necessary to deter damage from deer, and any failures of planting will be replaced.

2.38 **Comment 14:**

*"Comments from other sources seem to have been ignored across the ecology debate, whereas the claims of William Morrison's planning consultant have been repeated verbatim. Counter views include those of the county moth recorder on record ("lepidoptera assemblage would indicate high quality grassland", first recording of chimney sweep moth in the borough since the 1960s) and HMT's inspector of planning ("there will be a net biodiversity loss to the badger population", full reptile survey necessary before permission is granted) but these have not even been mentioned, let alone addressed. This is regrettable, particularly from supposedly neutral consultees".*

2.39 As discussed above, the grassland is currently in significantly sub-optimal condition, with a very low herb cover of 5 – 10% which has been established from botanical survey work rather than inferred from moth records. The Chimney Sweeper moth has an acknowledged status as 'common'<sup>8</sup>.

2.40 The layout has been substantially revised from that considered by the appeal Inspector such that under the revised proposals Badger interests would be fully safeguarded. Notwithstanding this fact, it should be borne in mind that Badgers are a common species (and indeed almost 35,000 Badgers were culled in England in 2019<sup>9</sup>) and do not enjoy an elevated conservation status. The protection they are afforded in legislation is solely on welfare grounds and the legislation allows for licences to be granted for works on Badger setts to enable development proposals to proceed. The intention of the legislation is for Badgers not to represent an impediment to development.

2.41 There is no reference to a "full reptile survey necessary before permission is granted" in the 2019 Inspector's decision. However, the matter of reptiles is fully addressed by the County Ecologist in their response dated 02 September 2020 which states "In addition to previous on site surveys Aspect Ecology carried out an artificial refugia survey for reptiles between July and August 2019. Reptiles and evidence of them being present was also directly searched in suitable places/features. I can accept that there is only a low population of reptiles present consisting of only very few individual slow worms and grass snakes. The mitigation and enhancement measures (MM8, EE2, EE3, EE6 & EE7) plus proposed new landscaping should have a neutral to positive impact overall".

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<sup>7</sup> See Technical Briefing Note TN10: Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation Tool. 07 August 2020. Existing area of H1 is 0.3415ha of which 0.2626ha is retained.

<sup>8</sup> <https://butterfly-conservation.org/moths/chimney-sweeper>

<sup>9</sup> <https://www.gov.uk/government/publications/bovine-tb-summary-of-badger-control-monitoring-during-2019/summary-of-2019-badger-control-operations>



### 3 CONCLUSION

3.1 The points raised in correspondence from Charlton Manor have been considered. In summary:

- The cutting of the grassland on site was delayed to benefit the botanical survey and the site visit by the County Ecologist and Gloucestershire Wildlife Trust. It has now been re-scheduled for the near future;
- Botanical survey work has been carried out at the optimal time of year. The purpose of the surveys is not to conduct a research project on the grassland but simply to adequately define the value of the grassland to inform a planning decision;
- To adjust for the timing of the reptile survey, modifications were made to the methodology employed to ensure a satisfactory survey could be conducted. The County Ecologist is satisfied that the findings are robust;
- The grassland on site will be retained and enhanced (not created). The survey work has determined that the herb interest in the grassland is infrequent in nature comprising typically only 5 – 10% of the sward. While grassland area will be lost to the proposal, the opportunity is present to restore the retained area of grassland to a herb rich sward;
- The Gloucestershire Wildlife Trust has confirmed the enhancement of the grassland habitat would benefit the ecological network. A Framework Management Plan of how this will be achieved has been agreed with Gloucestershire Wildlife Trust;
- The future of the grassland will be secured and protected such that the risk that its interest would be lost through inappropriate management e.g. application of herbicide, fertilizer, re-seeding or the leaving of grass cutting uncollected (absence of baling) would be removed;
- At the present there is no conservation management of the habitats on site. In the absence of the proposals, the prospects for restoration of the grassland are very low as are the prospects for securing the introduction of positive conservation management of the habitats;
- By contrast, the proposed development provides the only opportunity to protect and secure the future of the retained grassland alongside an appropriate management plan to maximise its biodiversity potential;
- Use for education/learning and protection of biodiversity are compatible, as long as managed in the appropriate way. How this will be achieved will be set out in the full Management Plan for the grassland which will be secured by way of a planning condition;
- The tree group on the ice house will be retained. Only minor tidying of the scrub around the ice house is proposed;
- The project engineer has confirmed that the proposed tree belt planting can be designed so that it would not affect the drainage pipes which run beneath it;
- The existing pond on the site will be retained;
- The majority of the site hedgerows will be retained and protected, while losses will be compensated for by new native planting;
- The Chimney Sweeper moth has an acknowledged status as 'common';
- Badger interests would be fully safeguarded. Notwithstanding this fact, it should be borne in mind that Badgers are a common species (and indeed almost 35,000 Badgers were culled in England in 2019) and do not enjoy an elevated conservation status.

3.2 In conclusion, a review of the points raised in the correspondence from Charlton Manor finds that these are all already addressed within the application documents. In addition, following the comment raised in respect of the existing pond on site, the applicant has confirmed that this will be retained.