



# CHEL TENHAM

## BOROUGH COUNCIL

William Morrison (Cheltenham)Ltd & APPLICATION NO: 18/02171/OUT  
Trustees Of

c/o SF Planning Limited

FAO Mr Simon Firkins

12 Royal Crescent

Cheltenham

GL50 3DA

DATE

REGISTERED: 27<sup>th</sup> October 2018

DECISION DATE: 22<sup>nd</sup> March 2019

### REFUSAL OF OUTLINE PLANNING PERMISSION

#### TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

In pursuance of its powers under the above mentioned Act and Order Cheltenham Borough Council, as the Local Planning Authority, hereby **REFUSES TO PERMIT** the following development:-

Outline application for residential development of up to 69 dwellings including access, layout and scale, with all other matters reserved for future consideration (revised scheme following refusal of application ref. 17/00710/OUT)

AT : Land Adjacent To Oakhurst Rise Cheltenham

in accordance with the reasons specified hereunder:-

- 1 The proposed development fails to adequately address the constraints and site specific requirements set out within emerging Cheltenham Plan Policy HD4 which identifies the site as a potential land allocation for housing. Although the Cheltenham Plan is currently under examination and has not yet been formally adopted, and there are significant unresolved objections to the policy, paragraph 48 of the NPPF (2019) does allow the Local Planning Authority to afford some weight to this policy in the emerging plan.
- 2 The proposed development would result in the loss of a number of trees within the application site, including a significant TPO'd tree which has some valuable characteristics and features of a Veteran tree. The scale of the development on this valuable site would also be likely to result in the deterioration of the retained Veteran trees, which would fail to be outweighed by wholly exceptional reasons.

The development would therefore be contrary to saved policies GE5 and GE6 of the Cheltenham Borough Local Plan (2006), adopted policy INF3 of the Joint Core Strategy (2017), and paragraph 175(c) of the National Planning Policy Framework (2019).

- 3 The proposed development would have a significant impact on the setting of nearby listed buildings, particularly Ashley Manor, an important grade II\* listed villa of more than special interest. The resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight, and this harm would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance.

The development would therefore be in conflict with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, adopted policy SD8 of the Joint Core Strategy (2017), and paragraphs 193, 194 and 196 of the National Planning Policy Framework (2019).

- 4 The application site is host to a number of protected species which would be affected by the proposed development. Most notably, a large badger sett is located to the north of the site which the application proposes to be relocated as part of the development. Paragraph 175(a) of the NPPF and Natural England's standing advice sets out a three stage approach to addressing impacts on biodiversity, and that compensation measures such as replacing setts that would be destroyed should be employed as a last resort. Alternative measures to avoid or mitigate harm to the badger sett do not appear to have been fully explored. Additionally, insufficient information has been submitted to demonstrate the future success of the relocated sett. The development would have a negative impact upon this valuable habitat of hedgerows and pasture, and biodiversity across the site generally.

The proposed development would therefore be contrary to adopted policy SD9 of the Joint Core Strategy (2017), paragraph 175(a) of the National Planning Policy Framework (2019) and Natural England's Standing Advice.

- 5 The application site is located in an elevated position above the town, outside of, but in close proximity to, the Cotswolds Area of Outstanding Natural Beauty (AONB). The scale of the proposed development in this tranquil location would have a negative impact on existing landscape character, and on views into and out of the AONB.

The proposal would therefore be contrary to saved policy CP3 of the Cheltenham Borough Local Plan (2006), and adopted policy SD6 of the Joint Core Strategy (2017).

Tracey Crews : Director of Planning

### **Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs).
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.