



TOWN AND COUNTRY PLANNING ACT 1990

**APPEAL AGAINST THE DECISION OF CHELTENHAM BOROUGH
COUNCIL TO REFUSE PLANNING PERMISSION FOR**

**AN OUTLINE APPLICATION FOR OUTLINE APPLICATION FOR 43
DWELLINGS INCLUDING ACCESS, LAYOUT AND SCALE, WITH ALL
OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION**

AT LAND AT OAKHURST RISE, CHARLTON KINGS, CHELTENHAM

**ON BEHALF OF WILLIAM MORRISON (CHELTENHAM LTD)
AND THE TRUSTEES OF THE CARMELITE CHARITABLE TRUST**

PINS REF: APP/B1605/W/20/3261154

LPA REF: 20/00683/OUT

APPELLANTS REF: PF/10093

**STATEMENT OF COMMON GROUND BETWEEN THE APPELLANTS
AND CK FRIENDS (RULE 6 PARTY)**

FEBUARY 2021

1.0 INTRODUCTION

1.1 In order to assist the Planning Inspector, this Statement of Common Ground has focused solely upon matters of disagreement between the appellants and CK Friends as the R6 Party.

2.0 MATTERS OF DISAGREEMENT

2.1 In summary form, the issues of disagreement relate to:

- i) the impact of the development '*on the setting of nearby listed buildings*' (Reason for Refusal);
- ii) the compliance of the proposals with the site specific requirements as set out within Cheltenham Local Plan Policy HD4;
- iii) the ecological impact of the development on a main badger sett, mature trees, grassland an important hedgerows, and a Local Wildlife Site;
- iv) matters raised by Barton Hyatt in respect of alleged deterioration of veteran trees due to changes to soil hydrology, and the invalidity of the concept of 'relic trees'; and
- v) whether the proposed location of the artificial badger sett will have an adverse impact upon drains and spring water supply to Charlton Manor.

2.2 CK Friends is to support the CBC case against allowing the appeal on heritage grounds and to resist the appeal on grounds of ecology and compliance with policy HD4.

2.3 CK Friends have no access to the most accurate data on affordable housing and will defer to the Council on this issue.

2.4 There is a dispute between the Appellants and CK Friends as to whether the development would achieve a net biodiversity gain as measured using the DEFRA metric, and on the provisions around future site management.

2.5 CK Friends have noted that their claims of site management changes in recent years are supported in previous ecological appraisals. The Appellants' position is that any changes are not relevant to biodiversity criteria.

2.6 There is a disagreement between the Appellants and CK Friends whether the proposed badger sett relocation is satisfactory.

2.7 On Policy HD4, which states '*A minimum of 25 houses, subject to master planning, which shows the development can be achieved while accommodating...'*'; the following positions are noted:

	Friends	Appellants
Safe, easy and convenient cycle links	None evident: Glos highways noted various limitations to safe cycling, including gradient and conflict with HGVs, but don't believe any to be sufficient to refuse permission.	The site is allocated as a suitable housing site in the recently adopted Development Plan.
Mature tree loss	2 mature trees are removed	New tree planting provided across the site alongside the creation of a new woodland belt with substantial new tree planting

<p>Any development on the site should secure improvements to the ice house</p>	<p>None evident; at the last appeal Inspector Sim's gave "no significant weight to information upon the Ice House, as a mere incidental to the development"</p> <p>Access to the ice house would be severely constrained.</p>	<p>Improvements are proposed in the removal of vegetation and provision of a public information board.</p>
<p>Protection of biodiversity assets</p>	<p>Closure of badger sett and relocation to current site of main slow worm, reptile and amphibian populations</p> <p>Loss of more than 44% of grassland, Constraints on enhancement plans</p> <p>DEFRA metric shows BNL not BNG.</p>	<p>Closure of Badger sett to be carried out under a Natural England licence with the use of full mitigation measures including the provision of an artificial sett</p> <p>44% of existing grassland to be lost and 56% of grassland to be retained and enhanced¹</p> <p>Defra metric shows BNG</p>
<p>Long term protection of mature trees and hedges</p>	<p>Mature tree succession risks identified. Relic tree concept disputed by Barton Hyett and WT; FLAC is a sole voice in proposing this treatment of ancient and veteran tree habitats, running counter to standing advice and NPPF direction.</p>	<p>23% of the central important hedgerow will be lost². The Hedgerows Regulations do not preclude the loss of hedgerows.</p> <p>In common with the First Appeal scheme, two mature trees of</p>

¹ See Aspect Ecology Technical Briefing Note TN10: Biodiversity Impact Assessment Using Defra Biodiversity Metric 2.0 Calculation Tool. 07 August 2020. Existing area of grassland is 3.3824ha of which 1.9085ha is retained.

² See Aspect Ecology 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.

	<p>23% of important hedgerow lost</p> <p>The Local Plan inspector made very specific and deliberate changes to the strength of policy HD4, with reference to mature trees, after Inspector Sims had concluded his appeal.</p> <p>Risk to mature and veteran trees from destruction of badger setts.</p>	<p>moderate quality are proposed for removal, 3016 and 3017. Neither of them are subject to the applicable TPO. The loss of these trees is not objectionable to the Council, and was not considered objectionable by Inspector Sims. All other mature trees would be retained, being protected during construction in accordance with BS5837:2012. Long-term protection is secured by the layout providing for a harmonious relationship between trees and development.</p> <p>The concept of relic trees developed by FLAC is based on settled aspects of tree biology. Barton Hyett and WT have no scientific basis for not accepting it.</p> <p>The Appellants reject the contention that the closure of the existing badger sett will have an adverse effect on mature and veteran trees.</p>
<p>To protect the setting of Charlton Manor, a</p>	<p>Badger sett moved to within 10 metres of east boundary of the development</p>	<p>The artificial sett design will be informed by additional Badger</p>

<p>landscaped buffer shall be maintained for a depth of 30 metres along the east boundary of the development site.</p>	<p>site, unspecified 'noise protection' required, machinery use precluded.</p>	<p>monitoring data to be collected post planning. The mitigation design will be fully scrutinised for its appropriateness by Natural England prior to a licence being granted. Few restrictions to future grassland management will arise from the presence of the artificial sett, as is the case now with the natural sett</p>
<p>There should be no development south of a straight line drawn westwards from the site boundary at the rear of the northernmost school building (protection of Ashley Manor, Grade II* asset).</p>	<p>There is extensive development south of that line.</p>	<p>The application of this policy statement in its proper context is satisfied.</p>

3.0 CONFIRMATION

3.1 In respect of the content of paragraphs 4.1. – 4.2 of the CK Friends' Statement of Case, it is accepted that '*other information and material*' when CK Friends prepare the evidence is to be

confined to the issues raised against the granting of planning permission as set out in their Statement of Case.



Signed:

Name:Mr P Frampton..... Date:.....24th February 2021.....

For and on behalf of William Morrison (Cheltenham Limited) and The Trustees of the Carmelite Charitable Trust



Signed:

Name:Mrs S Walker..... Date:.....24th Feb 2021.....

For and on behalf of Friends of Charlton Kings