



Town and Country Planning Act 1990

**Land off Oakhurst Rise, Charlton Kings, Cheltenham
Appeal by William Morrison (Cheltenham) Ltd and the
Trustees of the Carmelite Charitable Trust**

**Proof of Evidence of Philip Grover BA (Hons), BTP,
DIP ARCH (CONS), MRTPI, IHBC**

relating to

Heritage matters

on behalf of William Morrison (Cheltenham) Ltd and the Trustees of
the Carmelite Charitable Trust

Planning Application Reference: 20/00683/OUT

Appeal Reference: APP/B1605/W/20/3261154

February 2021

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1.0 Witness details

- 1.1 My name is Philip Russell Grover and I am a Director of Grover Lewis Associates Limited, a specialist town planning and built heritage consultancy. I have over 35 years' experience as a built heritage professional dealing with all aspects of development in the historic environment, including issues related to integration of new development within sensitive historic contexts.
- 1.2 I hold an Honours Degree (BA) in Architecture from Oxford School of Architecture (now Oxford Brookes University), a Bachelor's Degree in Town Planning from South Bank Polytechnic (now South Bank University) and a Postgraduate Diploma in Architectural Conservation from the University of Bristol. I am a member of the Royal Town Planning Institute (RTPI) and a founder member of the Institute of Historic Building Conservation (IHBC).
- 1.3 My professional experience includes working for Gloucester City Council where, as Design and Conservation Officer, I took a leading role in the revitalisation of the city's historic docks. At Newark and Sherwood District Council I was the Design and Conservation Manager responsible for leading a number of successful conservation-led regeneration projects in both rural and urban areas.
- 1.4 Between 1995 and 2005 I was Director of Postgraduate Studies in Historic Conservation within the School of the Built Environment at Oxford Brookes University and was responsible for developing the institution as one of the leading centres for built heritage conservation education and research in the UK. Research and consultancy commissions undertaken whilst at Oxford Brookes University included work for the then Office of the Deputy Prime Minister, English Heritage, Heritage Lottery Fund, IHBC and the Canal & River Trust.
- 1.5 Prior to setting up my own specialist consultancy in 2009 I was Director of Historic Buildings at the Newark office of CgMs Consulting, and before that Director of Historic Environment at the Central London office of RPS Planning. Since becoming a consultant I have been involved in advising a wide variety of public, charitable and private sector clients on design and heritage issues, often acting as a mediator between developers and local authorities/Historic England. As such I am fully conversant with national policy guidance relating to planning for the historic environment.
- 1.6 During my career as a historic environment specialist, I have continually needed to address issues relating to the impact of development proposals on

the setting of heritage assets, in respect of both large-scale and smaller projects. In the majority of these cases location, scale, massing, and design has been a central part of the consideration as to the acceptability of the development proposal.

- 1.7 In my capacity as a planning and heritage consultant I have at various times acted for developers, local authorities and third-party objectors. Consequently, I consider that I am able to take a balanced professional view in assessing the likely impact of proposals on the historic environment. I am also familiar with the issues appertaining to the setting of heritage assets, including the current and most recent guidance relating to the subject.

- 1.8 The evidence that I have prepared and provide for this appeal, Ref. APP/B1605/W/20/3261154 in this proof of evidence, is true and has been prepared and is given in accordance with the guidance of my professional institutions, the Royal Town Planning Institute and the Institute of Historic Building Conservation. I confirm that the opinions expressed are my true and professional opinions.

2.0 Appeal background and scope of evidence

Appeal details

- 2.1 The appeal relates to the refusal of planning permission by Cheltenham Borough Council for an outline planning application (LPA Ref. 20/00683/OUT) for residential development of 43 dwellings – access, layout and scale not reserved for subsequent approval, on land off Oakhurst Rise, Charlton Kings, Cheltenham, Gloucestershire.
- 2.2 The planning application was registered in April 2020. The application documentation included a Heritage Impact Assessment prepared by Grover Lewis Associates Ltd (**CD A12**).
- 2.3 The planning application was considered by Cheltenham Borough Council's Planning Committee on 17 September 2020. Contrary to the recommendation in the planning officer's report (**CD A102**), the Planning Committee resolved to refuse the application. The Council's Decision Notice (**CD A105**) cited a single reason for refusal, namely:

'The proposed development would have a significant impact on the setting of nearby listed buildings. 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.

Policy HD 4 of the Adopted Cheltenham Plan suggests a minimum of 25 dwellings can be accommodated on this site subject to a list of criteria. The proposal for 43 dwellings against the policy requirement of 25 has led to a layout which does not respect the character significant [sic] and setting of heritage assets. The proposal is therefore in conflict with Policy HD4 of the adopted Cheltenham Plan.

The development would also 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).'

Scope and nature of evidence

- 2.4 My evidence is given on behalf of William Morrison (Cheltenham) Ltd. and the Trustees of the Carmelite Charitable Trust. I have been engaged as an expert witness to provide specialist heritage evidence. I have advised William Morrison (Cheltenham) Ltd in the formulation of the present proposal that culminated in the application for planning permission to Cheltenham Borough Council Ref. 20/00683/OUT.
- 2.5 My evidence deals solely with those aspects of the Council's reason for refusal that relate to heritage matters, namely matters cited in Reason 1 above. As such, my evidence forms part of the Appellant's case in respect of this appeal.
- 2.6 The other aspects referred to in the Council's reason for refusal, specifically the planning procedural aspects of the case, planning policy considerations, and assessing the planning balance are dealt with by Peter Frampton. This proof of evidence should therefore be read in conjunction with the proof of evidence of Peter Frampton.
- 2.7 My evidence also deals with matters raised by other objectors, namely those raised by the Rule 6 party, Charlton Kings Friends (hereafter referred to as CK Friends) and Historic England.
- 2.8 My evidence is informed by an understanding of heritage-related planning law and policy, relevant published guidance, professional experience, and on-site assessment.
- 2.9 As part of my evidence, I have provided a set of photographs (Appendix A) to illustrate some of the key points made in relation to setting, views and visual impact. These photographs are intended to be illustrative only, and do not purport to have the technical properties of a verified image. However, I have taken care to ensure that these photographs are a fair and reasonable representation of the views that are experienced from various positions surrounding the appeal site. It is important that these views are experienced and assessed on site.

3.0 Decision-making context

- 3.1 My evidence takes account of relevant legislation as well as both the national and local heritage policy context. It also has regard to relevant national guidance relating to design and heritage matters.

Statutory duties

- 3.2 Statutory duties relating to proposals affecting listed buildings and conservation areas are contained in the Planning (Listed Buildings and Conservation Areas) Act 1990 (**CD L1**).

- 3.3 The relevant statutory duty relating to development affecting a listed building is contained in Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This makes it a duty for a local planning authority, in considering whether to grant planning permission for development which affects a listed building or its setting, to *'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*. As the settings of a number of listed buildings would be affected by the appeal proposals, the statutory duty under s66 (1) is directly engaged in this instance.

- 3.4 The courts have held (Ref. South Lakeland DC v Secretary of State for the Environment [1992] 2 AC 141) that *'preserving means doing no harm'*. They have further established that, where a proposal would cause some harm, the desirability of preserving a listed building or its setting, or character of a conservation area, should not simply be given careful consideration, but should be given *'considerable importance and weight'* when the decision-maker carries out the planning balance (Ref. Barnwell Manor Wind Energy Ltd v. East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137).

Development plan policy context

- 3.5 The local planning policy context is provided by saved policies in the Cheltenham Local Plan Second Review (adopted 2006) and the Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury, which was adopted jointly by the three local authorities in December 2017 (**CD D3**). Also, of particular relevance are the policies in Cheltenham Plan (2011-2031) which form part of Cheltenham's new Local Plan (**CD D4**). The Cheltenham Plan identifies non-strategic land-use allocations as well as setting out development management policies. The Cheltenham Plan was adopted July 2020.

3.6 Other than Policy BE20, which relates to archaeological remains (which could be deemed to apply to the remains of the former ice house), there are no saved heritage policies within the Cheltenham Local Plan 2006 that are applicable in the particular context of the current application proposals, namely development affecting the setting of designated heritage assets. However, the Joint Core Strategy contains a relevant strategic heritage policy (SD8).

3.7 Joint Core Strategy Policy SD8: *Historic Environment*, states amongst other things that:

‘Development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment’

The policy goes on to state that:

‘Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place’.

3.8 Cheltenham Plan Allocation Policy HD4: *Land Off Oakhurst Rise*, is of specific relevance to the current application. It allocates all of the land within the appeal site as a housing site. It defines a minimum of 25 dwellings on the land subject to, amongst other things:

‘A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development’

The policy also states that:

‘New housing should be located away from the setting of the west elevation of Ashley Manor. There should be no development south of a straight line westwards from the rear of the northernmost school building. In addition, to provide an undeveloped buffer between the rear garden boundary of Charlton Manor and the new development a landscaping buffer should be provided for 30 metres west of the rear boundary with Charlton Manor.

Policy HD4 also stipulates that:

‘Any development on the site should secure improvements to the Ice House’

3.9 Cheltenham Plan Policy HE1: *Buildings of Local importance and non-designated heritage assets*, (Main Modifications) states, amongst other things, that:

‘Development proposals that would affect a locally important or non-designated heritage asset, including its setting, will be required to have regard to the scale of any harm or loss and to the significance of the heritage asset.’

- 3.10 Cheltenham Plan Policy HE2: *National and local archaeological remains of importance*, states that:

‘There will be a presumption in favour of the physical preservation in situ of nationally important archaeological remains and their settings.’

‘Development affecting sites of local archaeological importance will be permitted where the remains are preserved:

- a) *In situ*
- b) *By record, if preservation in situ is not feasible.*

Where remains are to be preserved in situ, measures adequate to ensure their protection during construction works will be required.’

National heritage policy context

- 3.11 Central Government planning policy is set out in the National Planning Policy Framework (NPPF), the most recent version of which was published by the Ministry of Housing, Communities and Local Government in February 2019 (**CD D1**). The policies in the NPPF are a material consideration in planning decisions. A number of the policies set out in the NPPF are of direct relevance to the consideration of the appeal proposal at Oakhurst Rise, Charlton Kings.
- 3.12 At the heart of the NPPF is a presumption in favour of sustainable development (NPPF, para 10). The NPPF at paragraph 8 advises that sustainable development has three dimensions: economic, social and environmental. It advises, amongst other things, that the environmental role involves protection and enhancement of the built and historic environment.
- 3.13 Of particular relevance to my evidence are policies relating to the conservation and enhancement of the historic environment. These matters are dealt with in section 16 of the NPPF.
- 3.14 The NPPF defines conservation (for heritage policy) as *‘the process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance’* (Annex 2: Glossary, page 65).

- 3.15 The policies in section 16 of the NPPF refer to the concept of a *heritage asset*, which is defined as *'a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing)'*. (Annex 2: Glossary).
- 3.16 The NPPF defines a designated heritage asset as *'a world heritage site, scheduled monument, listed building, protected wreck site, registered park and garden, registered battlefield and conservation area, designated as such under the relevant legislation'* (Annex 2: Glossary, page 66).
- 3.17 The policies in section 16 of the NPPF place an emphasis on *significance*, which is defined as *'the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting'*. (Annex 2: Glossary).
- 3.18 The NPPF (Annex 2: Glossary p.71) defines the setting of a heritage asset as: *"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*.
- 3.19 With regard to proposals affecting heritage assets paragraph 189 of the NPPF states that *'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance'*. This document aims to satisfy this requirement.
- 3.20 NPPF Paragraph 193 states that in considering the impact of a proposed development on the significance of a designated heritage asset, *'great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance)'*.
- 3.21 Paragraph 194 of the NPPF also makes it clear that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. It goes on to state that *'any harm or loss should require 'clear and convincing justification'*

- 3.22 The policies in Chapter 16 of the NPPF make provision for ‘substantial’ and ‘less than substantial’ harm to the significance of heritage assets.
- 3.23 Paragraph 194 states that *‘Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification’*. It goes on to state that substantial harm to or loss of:
- a) *grade II listed buildings, or grade II registered parks or gardens should be exceptional.*
 - b) *assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional’.*
- 3.24 Paragraph 195 of the NPPF deals with the approach to be taken where a development proposal is considered to result in substantial harm or total loss of significance of a designated heritage asset. In such instances the NPPF states that local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss.
- 3.25 Paragraph 196 (page 56) states that:
- ‘... where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use’*
- 3.26 Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Specifically, it states that: *‘In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’.*

Relevant guidance

National Planning Practice Guidance (NPPG)

- 3.27 Interpretation of the policies in the NPPF is provided by the on-line Planning Practice Guidance (PPG), most recently updated in October 2019 **(CD D2)**. In

relation to the NPPF definition that significance is the value of a heritage asset to this and future generations because of its heritage interest and that heritage interest may be archaeological, architectural, artistic or historic, the PPG states that, this can be interpreted as follows:

- *archaeological interest: As defined in the Glossary to the National Planning Policy Framework, there will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.*
- *architectural and artistic interest: These are interests in the design and general aesthetics of a place. They can arise from conscious design or fortuitously from the way the heritage asset has evolved. More specifically, architectural interest is an interest in the art or science of the design, construction, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other human creative skill, like sculpture.*
- *historic interest: An interest in past lives and events (including pre-historic). Heritage assets can illustrate or be associated with them. Heritage assets with historic interest not only provide a material record of our nation's history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.*

3.28 The PPG stresses the importance of understanding the potential impact of development proposals on significance (paragraph: 007 Reference ID: 18a-007-20190723) and that understanding the significance of a heritage asset and its setting from an early stage in the design process can help to inform the development of proposals which avoid or minimise harm (paragraph: 008 Reference ID: 18a-008-20190723). The PPG goes on to advise that applicants' assessments of significance should include analysis of the significance of the asset and its setting, and, where relevant, how this has informed the development of the proposals (Paragraph: 009 Reference ID: 18a-009-20190723).

3.29 With regard to the concept of 'setting', the PPG notes that whilst the extent and importance of setting is often expressed by reference to the visual relationship between the asset and the proposed development and associated visual/physical considerations, setting is also influenced by other environmental factors such as noise, dust, smell and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. It also makes clear that the contribution that setting makes to the significance of the heritage asset does not depend on there being public

rights of way or an ability to otherwise access or experience that setting (paragraph: 013 Reference ID: 18a-013-20190723).

3.30 The PPG states that any potential harm to designated heritage assets identified, needs to be categorised as either less than substantial harm or substantial harm, and furthermore that within each category of harm, the extent of the harm may vary and should be clearly articulated (paragraph: 018 Reference ID: 18a-018-20190723).

3.31 With regard to the term 'public benefits', the PPG advises that public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives; that public benefits should flow from the proposed development; and that they should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, the PPG notes that benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit. In the context of public benefits, the PPG states that heritage benefits include:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation.

(paragraph: 020 Reference ID: 18a-020-20190723).

3.32 The Historic Environment Good Practice Advice in Planning (GPA2), entitled '*Managing Significance in Decision-Taking in the Historic Environment*' was published by Historic England/English Heritage in March 2015 (**CD H16**). This guidance forms part of a suite of good practice advice documents that supersede the earlier *PPS5 Historic Environment Planning Practice Guide*. GPA2 reiterates earlier guidance that the assessment of the significance of heritage assets is an essential part of the planning process. Due regard has been had to this advice in preparing this proof of evidence.

3.33 Of particular relevance in the context of the appeal proposal is the Historic England Historic Environment Good Practice Advice in Planning (GPA3) entitled *The Setting of Heritage Assets*, 2nd edition published December 2017 (**CD H17**). GPA3 defines setting as '*the surroundings in which a heritage asset is experienced*'. The guidance advises that '*While setting can be mapped in the context of an individual application or proposal, it does not have a fixed boundary and cannot be definitively and permanently described for all time as*

a spatially bounded area or as lying within a set distance of a heritage asset because what comprises a heritage asset's setting may change as the asset and its surroundings evolve'.

3.34 GPA3 provides a framework for the assessment of proposed changes to the setting of a heritage asset. It gives helpful and up to date advice that provides clarity and detail to the understanding of the concept of the *setting* of a heritage asset.

3.35 In order to assess the degree of potential harm to the significance of a heritage asset, GPA3 advises a five-step approach:

- Step 1: Identify which heritage assets and their settings are affected
- Step 2: Assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated
- Step 3: Assess the effect of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it
- Step 4: Explore ways to maximise enhancement and avoid or minimise harm
- Step 5: Make and document the decision and monitor outcomes

In seeking to evaluate the impact that the appeal proposal at Oakhurst Rise would have on the historic environment in its locality, I have had regard to the Historic England guidance on setting contained in GPA3.

Statement

3.36 I have had regard to the above statutory duties, planning policies, and guidance, in my assessment of the impact and effects of the appeal proposal on the surrounding area, with particular regard to the settings of listed buildings at Ashley Manor and Charlton Manor, and the former ice house. In reaching my conclusions I have also had regard to relevant principles derived from recent case law relating to impacts on heritage assets.

4.0 The appeal site

- 4.1 The appeal site is located within the urban area of Cheltenham. Cheltenham has a population of circa 120,000 people. The appeal site is approximately 1.25 miles east of Cheltenham town centre. It is located in the suburb of Charlton Kings. The site comprises a parcel of undeveloped grassland of approximately 4.1 hectares in area. To the west of the site is the Ewens Farm residential estate. To the north and east is the Battledown residential estate, and to the south is the St Edward's Preparatory School. There is existing housing on three sides of the site; along Ashley Road to the east, Birchley Road to the north and Oakhurst Drive to the west.
- 4.2 The appeal site comprises part of the land leased by St Edward's preparatory School from the trustees of the Carmelite Charitable Trust. There are no public rights of way across the site. It lies to the immediate north of St Edward's School. The land has a significant upward slope from south to north. It contains a substantial number of large mature trees, especially towards the western side. A particular feature of the western portion of the appeal site is a wide belt of mature trees that runs up the slope in an approximately north-south orientation. Plate 1 is a general view of the appeal site, looking north-west from the south-east corner of the site.
- 4.3 Historically, the appeal site was within the ownership of Ashley Manor, a grade II* listed building that currently forms the administration block for St Edward's School of St Edward's School to the south. The land historically served no ornamental role, and was used as pasture land. As such it was never designed parkland, the formal gardens and designed landscape grounds to Ashley Manor being located to the south of the house. The designed parkland was located on the ground below the house, which falls downward towards the modern development to the south.
- 4.4 A notable feature within the eastern portion of the appeal site is the remains of a former ice house, which is situated approximately two thirds of the way up the slope. It is visible in the form of a mound, dominated by mature trees (see Plate 2). Adjacent to the north-east corner of the appeal site is a grade II listed private residence known as Charlton Manor. I discuss the significance, setting and spatial relationship of Ashley Manor, Charlton Manor and the ice house in Section 5 of this proof of evidence.
- 4.5 The entire appeal site is allocated as a site for residential development in the statutory development plan for Cheltenham Borough, the Cheltenham Plan.

5.0 Heritage planning background

5.1 In seeking to assist the Inspector in understanding the rationale for the current appeal proposals, I consider that it is helpful to provide a summary of the relevant heritage planning background that has led to the shaping of the currently proposed scheme. This background includes the progressive stages of the allocation of the land as a residential development site within the statutory development plan for the borough (the Cheltenham Plan), intertwined with the chronology of planning applications that have been submitted in relation to the appeal site (land off Oakhurst Rise).

2017

5.2 In 2017 Cheltenham Borough Council advanced the allocation of a number of sites, including the land off Oakhurst Rise (now the appeal site), as potential sites for residential development, within the then emerging Cheltenham Plan. This led to various representations being made to the Council, including a response from Historic England raising concerns regarding the setting of heritage assets.

5.3 In April 2017 the appellant submitted an outline planning application for a development of 100 dwellings (validated in August 2017 - Ref. 17/00710/OUT). During the consultation period the number of units was reduced to 90 dwellings. The professional officers of the Council recommended that the proposal be approved, with the public benefits of the proposal outweighing the heritage harm. Despite an officer recommendation for approval, the Planning Committee of Cheltenham Borough Council resolved to refuse the application in July 2018. One of the five reasons for refusal related to harm to the settings of nearby heritage assets. The layout plan submitted with this application, the Planning Officer's Report to the Planning Committee and the Decision Notice are provided as Core Documents (**CD A102 and CD A105**).

5.4 In response to the concerns raised by Historic England, Cheltenham Borough Council commissioned environmental consultants Ecus Ltd in 2017 to undertake historic environment appraisals of fourteen sites, including land off Oakhurst Rise, to inform decisions on their potential allocation as development sites within the emerging Cheltenham Plan. The Ecus study was published in December 2017, and the findings summarised in tabulated form, setting out the likely heritage impact of development in these locations, together with potential mitigation measures (**CD H18**). The Ecus report formed part of the evidence base for the emerging Cheltenham Plan.

Late 2018 and early 2019

- 5.5 The emerging Cheltenham Plan was submitted for examination in October 2018. Following discussions with Historic England, Cheltenham Borough Council commissioned Ecus Ltd in December 2018 to undertake a further site-specific heritage assessment in respect of land off Oakhurst Rise, in order to provide a more detailed assessment of the potential impact of development on the setting of nearby heritage assets to the previous appraisal, having particular regard to the advice set out in GPA3: *The Setting of Heritage Assets*. The second Ecus report, dated January 2019, **(CD H19)** had the specific purpose of assessing the contribution of the land in question to the setting and significance of nearby heritage assets, in particular Ashley Manor and Charlton Manor, and to suggest approaches to maximise enhancements and avoid harm as part of the Local Plan allocation. I find the Ecus assessment to be thorough, clear and systematic, and in the main I concur with its findings.
- 5.6 In respect of the contribution that the appeal site makes to the significance of grade II* Ashley Manor, the 2019 Ecus report considers that the western portion of the site makes a neutral contribution to the heritage significance of the listed building. In contrast, it considers that the eastern portion of the site, containing the functionally and historically related former ice house makes a greater contribution. It concludes at 5.2.12 that: *‘Overall, the site does contribute to the current appreciation and experience of the heritage significance of the Grade II* listed building, although it can be considered that this positive contribution is mainly derived from the eastern portion of the site. Despite this, the overall contribution can be considered to be not as strong as the immediate landscape surroundings of the listed building within the school grounds.’*
- 5.7 In respect of Charlton Manor, the 2019 Ecus report concludes, at paragraph 5.2.17 that: *‘The site is situated to the west of the designated heritage asset and the fields within form as a semi-rural backdrop within the wider setting of the listed building. This semi-rural backdrop does not provide a significant contribution to the understanding of buildings historic and architectural interests which are most readily appreciated within the immediate setting. As such, the site is considered to provide a neutral contribution to the heritage significance of the listed building’.*
- 5.8 During the course of 2019, the Cheltenham Plan continued to progress towards adoption. Land off Oakhurst Rise continued to be included as one of the allocated sites for residential development. Examination hearings on the Cheltenham Plan were held during February 2019.

- 5.9 In October 2018 the Appellants submitted a further outline planning application on land off Oakhurst Rise Ref. 18/02171/OUT. In light of the refusal of the previous scheme for 90 dwellings, the new scheme was reduced to 69 dwellings (subsequently amended to 68).
- 5.10 The professional officers of Cheltenham Borough Council recommended the proposal be approved, with the public benefits of the proposal outweighing the heritage harm. Despite an officer recommendation for approval, the Council's Planning Committee resolved to refuse the application in February 2019 with a decision notice issued in March 2019. Again, there were five reasons for refusal, one of which related to harm to the setting of nearby heritage assets.
- 5.11 The Cheltenham Plan Inspector's Post-Hearing Advice Note of April 2019 (**CD L5**) noted the previous refusal of planning permission for 69 houses on the site, as well as the position of Historic England in relation to potential impact on the setting of the grade II* listed Ashley Manor, and the grade II listed Charlton Manor. The Inspector commented that *'the views of HistE are disputed by expert evidence which I have taken into account in my consideration of the potential for development of the site. I visited the site on the 5 March 2019.'* Having reviewed Historic England's proposed amendments to the wording of Policy HD4, which would have restricted new housing to the west of the site behind the existing tree belt, the Inspector concluded that the reduction in the area of the development was not justified. The Inspector nevertheless considered that there was *'good reason to amend the boundaries of the development area from that currently proposed in the CP, and to require new tree planting around the east and south boundaries to safeguard the settings of both listed buildings'*, and recommended a Main Modification to Policy HD4 accordingly.

Late 2019 and 2020

- 5.12 An appeal against the Cheltenham Borough Council's refusal of the outline application for 68 dwellings was dismissed in September 2019. A key reason for dismissal of the appeal was adverse impact on heritage assets. A copy of the Inspector's appeal decision is provided as Core Document (**CD B6**).
- 5.13 In helping to shape the proposals that are under consideration at the current appeal, I was mindful of the 2019 appeal Inspectors decision, and of the specific concerns raised in his decision letter. One of the main issues identified by the 2019 appeal Inspector was the effect of the development would have on the settings of neighbouring heritage assets, in particular the grade II* Ashley Manor, the grade II listed Charlton Manor, and the former ice house. It was for these reasons that the Appellants' team sought a design that responds directly

to the 2019 appeal Inspectors specific concerns. I summarise below the Inspector's concerns, and the Appellants' response to them.

- 5.14 Commenting on the contribution of the appeal site to the setting of the grade II* listed Ashley Manor, the 2019 appeal Inspector considered at paragraph 71 of his decision letter that, although the appeal site never formed part of managed parkland of the house, it had a functional relationship to it as farmland, and as the location of its former ice house. He commented that Ashley Manor and the appeal site were intervisible through current boundary vegetation, and that *'direct views are available from at least one north-facing windows onto the currently mainly open, eastern part of the site, including the tree-covered mound of the icehouse'*. The Inspector commented that *'Moreover, the site, rising to the north, provides a green backdrop to the Manor in distant views.'*
- 5.15 In terms of the effect of the 2019 appeal scheme on the setting of the grade II* listed Ashley Manor, the Inspector stated, at paragraph 78 of his decision letter that the proposed introduction of new landscape planting on the southern boundary *'would obstruct the relationship of the Manor to this part of its setting'*. For this specific reason, landscape planting has not been included along that the site's southern boundary in the current appeal proposals. At paragraph 79 of his decision letter the Inspector stated that *'...part of the development comprising plots 27-30 in the south-eastern corner of the site, would intervene prominently in views to the north from the Manor House, including from its interior, impeding appreciation of the historic Ice House and the rural backdrop the site currently provides'*. In specific response to this concern, new houses in the location referred to by the Inspector have been omitted in the current appeal proposals, keeping that part of the site entirely free of development.
- 5.16 Summarising the specific concerns outlined in paragraphs 78 and 79 of his decision letter, the 2019 appeal Inspector stated that *'I consider that these effects on the relationship between the Grade II* Ashley Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building'* (my emphasis). Since 'these effects' have been completely eliminated from the current appeal proposals I consider that the scheme entirely addresses the stated concerns of the 2019 appeal Inspector in respect of Ashley Manor.
- 5.17 Commenting on the contribution of the appeal site to the setting of the grade II listed Charlton Manor, the 2019 appeal Inspector commented at paragraph 74 of his decision letter that the house has *'significant habitable rooms on the first and second floor'*, and at paragraph 75 that *'the windows of the upper floor rooms especially afford open views across the appeal site, past the Ice House mound and as far as the mountains of South Wales on the far side of the*

Severn Estuary. At paragraph 76 the Inspector stated that he recognised ‘a strong visual interrelationship between the site and Charlton Manor.’ He went on to state that *‘the appeal site and the Ice House it encompasses, contributes importantly to the historic and current visual setting of both these listed buildings as designated heritage assets’*. Whilst I accept that there is a visual interrelationship between Charlton Manor and the appeal site, particularly the closest eastern portion of the site, I do not consider that distant views, through the site, to the Black Mountains (some 40 miles/64 kilometers to the west) represent a large component of the listed building’s significance. Furthermore, I do not consider that a view from an attic storey private window, clearly designed as a servants’ bedroom, can be considered to represent an important designed view contributing greatly to the heritage significance of Charlton Manor.

- 5.18 In respect of the effect of the 2019 appeal scheme on the setting of the grade II listed Charlton Manor, the Inspector stated, at paragraph 84 of his decision letter, that *‘...the presence of the new built development would still be visible from Charlton Manor and prominent from its important west-facing windows’*. He went on to state that *‘Distant views would be partly obstructed and, furthermore, the Ice House would be obscured by the intervening dwellings on plots 31-34’*. It is precisely due to these concerns that the Appellants resolved to omit any proposed development in the location referred to by the Inspector in the current appeal proposals, keeping that part of the site entirely free of development. The resulting development would therefore not obscure the former ice house or, for the most part, distant views to the west.
- 5.19 As in the case of Ashley Manor, summarising the specific concerns outlined in paragraphs 84 of his decision letter, the 2019 appeal Inspector stated *that ‘I consider that these effects on the relationship between the Grade II Charlton Manor and the appeal site would have a very significant adverse impact upon the setting of the Listed Building’* (my emphasis). Since ‘these effects’ have been completely eliminated from the current appeal proposals I consider that the scheme entirely addresses the stated concerns of the 2019 appeal Inspector in respect of Charlton Manor.
- 5.20 In his overall conclusions on the appeal scheme for 68 dwellings, the 2019 appeal Inspector commented that whilst he considered the harm to the settings of both listed buildings to be less than substantial in the terms of the NPPF, this was nonetheless significant, and required consideration against the level of public benefit in the final planning balance.
- 5.21 During the course of 2020 the Cheltenham plan continued to progress towards adoption. Land off Oakhurst Rise remained as an allocation in the emerging plan subject to the main modifications (MM016) which included criteria to

safeguard the settings of adjacent listed buildings. The Cheltenham Plan Inspector's final report dated March 2020 (**CD L6**) noted the dismissal of the 2019 appeal for 68 dwellings, and commented that '*A more modest development would enable the interrelationships between the listed buildings, the site and the Ice House to be better addressed and to avoid any harmful impact on the setting of the listed buildings*', concluding that the main modifications met the criteria for soundness of the NPPF.

- 5.22 It was in the context of the continued inclusion of land off Oakhurst Rise as an allocated site for residential development within the emerging Cheltenham Plan, and having regard to the specific concerns of the 2019 appeal Inspector, that a revised scheme for the site was devised by the Appellant's team in early 2020. This scheme, of substantially reduced scale was the subject of pre-application discussion with planning and conservation officers at Cheltenham Borough Council. Officers agreed as an acceptable way to proceed. I discuss the evolution of the appeal proposals and the pre-application discussions with officers in more detail in section 6 of this proof of evidence. An outline planning application for 43 dwellings was therefore submitted to Cheltenham Borough Council in April 2020.
- 5.23 In July 2020 the Cheltenham Plan was formally adopted by the Council, incorporating the site-specific policy criteria recommended in the main modifications. To my mind, it is highly significant that the entirety of the appeal site has been allocated for residential development within the development plan. Throughout the plan-making process there was every opportunity for Cheltenham Borough Council, and the Local Plan Inspector, with the full knowledge of the particular heritage constraints on the site, to reduce the extent of the allocation and to restrict the numbers of dwellings to a specific maximum. The Council did not, and nor did the Local Plan Inspector.
- 5.24 In summary, it can clearly be seen from the chronological information I have set out, that the current appeal scheme represents the culmination of a sequence of interlinked stages in the planning process. The proposals have not been conceived in a vacuum. Rather, they represent the logical solution of a succession of interrelated stages (applications and allocations) that have ultimately shaped the proposals. The proposals respond to the specific concerns raised by the 2019 appeal Inspector. During this time there has been mixed messages from the Council; on the one hand there has been consistent support for successive planning applications on the site by planning officers, backed by the emerging (and now formally-adopted) development plan policy; on the other hand, there has been repeated rejection of applications by elected members against officer recommendation.

6.0 The appeal proposals

- 6.1 The appeal proposals involve the development of land off Oakhurst Rise for 43 residential units. The proposals follow the two previous unsuccessful planning applications for residential development on the site described above; 90 dwellings refused in July 2018 Ref. 17/00710/OUT, and 69 dwellings (amended to 68) refused in March 2019 Ref. 18/02171/OUT, and dismissed at appeal in September 2019.
- 6.2 As I have previously said, the current appeal proposals sought to overcome the main issues identified by the 2019 appeal Inspector in respect of the scheme for 68 dwellings. They were the subject of pre-application discussions with the Senior Planning Officer Emma Pickernell, and the Senior Conservation Officer, Chris Morris, at Cheltenham Borough Council. I was responsible for leading the discussions with the Council's Senior Conservation Officer in respect of the revised proposals that culminated in the submission in April 2020 of an application for outline planning permission.
- 6.3 Pre-application discussions in respect of revised proposals were commenced in early 2020, with initial sketch concepts presented to planning and conservation officers at Cheltenham Borough Council in February 2020. An internal memo from the Senior Conservation Officer to the Case Officer, dated 5 March 2020 (**CD H20**) sets out his initial views of the emerging proposals for the site. The Senior Conservation Officer's views were largely positive, stating that:
- 'The amended proposal has gone a long way to overcoming many of the concerns raised previously. The significant reduction in the developable area has eased its impact on the heritage assets and their settings. However, while the previous issues have largely been addressed it is considered some amendment to the proposal is necessary before the proposed development can be fully supported in heritage terms'.*
- 6.4 At that stage the residual concerns of the Senior Conservation Officer centred around the relationship of the revised development proposals to the former ice house, specifically how the ice house mound would be perceived in views from the two listed buildings. The Senior Conservation Officer advised that the ice house required more 'breathing space' and that the development immediately to the north-west of the former ice house should be replaced by extending the green buffer. The Senior Conservation Officer's views of the revised proposals concluded with the comment that:

‘Generally I feel very positive concerning the proposed amendments. If the issues raised above can be addressed satisfactorily the principle of the developable area could be supported. I would welcome a meeting to discuss these issues further prior to any amendments to the proposal’.

- 6.5 In the light of the comments from the Council’s Senior Conservation Officer the Appellant’s team worked on refinements to the revised proposals, aimed at addressing the specific concerns highlighted. I had a number of constructive exchanges with the Senior Conservation Officer, culminating in an agreed approach.
- 6.6 The finalised version of the proposals that were submitted for planning permission in April 2020 represent a development of substantially reduced scale and site coverage from the 68-unit scheme that was dismissed at appeal in September 2019. The underlying drivers of the appeal scheme were to achieve a viable and appropriate residential development that made best use of available land, whilst minimising adverse impact on the settings of designated heritage assets as well as safeguarding mature trees on the land.
- 6.7 In relation to built heritage matters, the appeal scheme seeks to address the issues raised by the Council’s Senior Conservation Officer in August 2019, and the Inspectors appeal decision letter of September 2019, namely concerns regarding the settings of the grade II* Ashley Manor, the grade II listed Charlton Manor and the former ice house.
- 6.8 In order to protect the settings of these two listed buildings and that of the former ice house, the appeal proposals retain a large expanse of open green space on the eastern side of the application site. This will ensure that the green backdrop, immediately to the north of Ashley Manor, and to the immediate west of Charlton Manor will remain entirely free of built development. This large and continuous area of retained green space incorporates the former ice house, which has a historical connection with Ashley Manor and a visual relationship with both listed buildings. Appropriate space will be retained around the former ice house to ensure that remains legible as a feature within the landscape. The appeal proposals will ensure that intervisibility between the two listed buildings and the ice house remains unobstructed. Figure 1 in Appendix A is a copy of the architect’s site layout drawing, showing the disposition of the proposed residential development on the site.
- 6.9 To provide an appreciation of just how much of the appeal site would remain free of development, the Appellant’s team has carefully measured the amount of residential development (houses, gardens, roads and parking areas) in relation to the total site area. At Figure 2 in Appendix A, I include a plan prepared by the architects showing the extent of the developed area as a

proportion of the site as a whole. Of the total site area of 41,481 sqm, 12,206 sqm will comprise developed land. This accounts for less than 30% of the total allocated site area. Put another way, over 70% of the allocated site will remain free of built development, and will be retained as managed green space. To my mind this represents a very high proportion of a site that is allocated in its entirety for housing.

- 6.10 A very large swathe of the allocation site, stretching from the south west corner to the north east corner, including all of the south west of the allocation site and taking in a large part of the eastern portion will be free from development.
- 6.11 The appeal proposal comprises a mixture of detached, semi-detached and terraced dwellings. The proposed development will be concentrated predominantly in the northern and western parts of the site, with vehicular and pedestrian access from Oakhurst Rise, which abuts the site on its western side. From here the access drive winds through the northern part of the site, culminating in a cul-de-sac. The majority of the proposed housing addresses the access road, with two small clusters of housing served by short cul-de-sac roads to the south.
- 6.12 The appeal proposal will incorporate a high level of tree screening, including retained large groups of mature trees around the periphery and within the site. Additionally, the majority of the existing broad belt of mature trees that runs north-south across the western part of the site will be retained, with the exception of where it is breached for a short distance to facilitate to the construction of the access road and a small part of the development.
- 6.13 It is proposed to introduce significant new tree and shrub planting within the appeal site, including in particular a broad belt of native woodland to the east of the developed part of the site. Details of the proposed new planting was provided on the Landscape Strategy drawing prepared in support of the application by MHP. The primary function of this woodland belt will be to provide an appropriate green buffer to the proposed development, thereby ensuring that the impact of the appeal proposals on the settings of the grade II* listed Ashley Manor, the grade II listed Charlton Manor and the former ice house is suitably mitigated. The native woodland belt will also have the function of contributing towards the enhancement of the biodiversity of the appeal site. I recognise that the proposed woodland belt will serve to mitigate, rather than entirely eliminate visual impact of the appeal development on the settings of the listed buildings, but am firmly of the view that, when it gains maturity, it will substantially reduce any adverse effects.
- 6.14 On completion of the development, the open land on the eastern side of the appeal site, which includes the former ice house, will be retained. In

accordance with the requirement of Policy HD4 of the Cheltenham Plan it is proposed to undertake improvements to the former ice house in the form of selective clearance of scrub, but retaining the mature trees, thereby better revealing the ice house mound. In addition, it is proposed to provide a historical interpretation board. Both of these measures would mean that the heritage significance of the former ice house will be better understood and appreciated as a heritage asset.

- 6.15 It should be noted that, as set out in the officer's report to the Planning Committee, that the Council's Senior Conservation Officer concluded as follows, in respect of the appeal proposal:

'The proposal has been significantly amended since the previous proposals to address the reasons for refusal. Notable is the decrease in the number and location of dwellings, and the proposed extensive landscaping measures to reduce and mitigate the visual impact of the development proposal on the heritage assets and their settings. Cumulatively these measures, and the acceptance of the public benefits of the proposal, are considered to result in a proposal that, on balance, should not be objected to in heritage terms.'

7.0 Heritage assets, setting and significance

- 7.1 As I have previously highlighted, the appeal site is situated in close proximity to two statutorily listed buildings, namely the grade II* Ashley Manor (the Administration block for St Edward's School) and the grade II listed Charlton Manor, a private residence. Within the site itself lies the former ice house associated with Ashley Manor and adjacent to the north side of the site is a non-designated heritage asset known as Glen Whittan. I discuss the significance of these heritage assets below, including the contribution made by setting, together with the impact that the appeal development would have on that significance.

Ashley Manor – historical background and description

- 7.2 To the immediate south of the appeal site lies the grade II* listed Ashley Manor, now the Administration block of St Edward's School. The building was constructed in two main phases, the earliest of which forms the north wing of the present building. Dating from 1832, it was constructed as modest, plain stucco villa for Alexander Ogilvy, and became known as *The Woodlands*. Ogilvy's house appears to have had a narrow, rectangular plan form, aligned north-south on the site, with long elevations facing east and west.
- 7.3 Ogilvy sold the property in 1837 to the notable Cheltenham banker, Nathaniel Hartland, the single most important lender of money to builders of the fashionable Pittville development of Regency Cheltenham. Hartland employed the local Cheltenham architect, Charles Baker to create a much grander house on the site, grafting an entirely new two-storey, Regency villa onto the south-west side of the house. The resulting mansion became known as *The Oaklands*.
- 7.4 Ogilvy's original modest stucco villa, was retained as a service wing, attached to the northern side of the new house, located close to the stable range and other ancillary buildings. The new configuration of the property is clearly shown in a framed estate plan dated 1846, that I have seen within Ashley Manor (see Figure 3) denoting the re-modelled house as '*mansion*'. The estate plan shows the house as being orientated to the south, with its principal elevation aligned to take in views across the gardens and pleasure grounds to the south towards Leckhampton Hill. The west elevation of the mansion, incorporating a substantial, projecting entrance portico, was orientated to the carriage drive approach sweep. Plate 3 is a general view of the principal (south) elevation of Ashley Manor.

- 7.5 An undated plan of Nathaniel Hartland's estate held the Gloucestershire Archives, throws some useful light on the historical configuration and use of the various parts of land surrounding his mansion. Superimposed to indicate the potential routes of prospective railways across the estate (presumably tunnelled), the plan almost certainly dates from 1840s. By means of lettered annotation, linked with a key, the plan describes differing features and elements of the estate (see Figure 4). It clearly shows that all of the designed landscape was located to the south of the house, including features such as '*Lawns with flowers beds*', '*Continuance of lawn with Oaks and Elms of 200 years growth and pleasure grounds*, and '*Pleasure gardens and shrubberies*'. There is not reference whatsoever of any designed elements on the land to the north of the house (the appeal site).
- 7.6 The principal, south-facing elevation incorporates a full-height deeply-projecting bow with giant Corinthian columns rising up either side of the central windows. Behind this is the principal room of the house, with views looking south towards the gardens and elevated Cotswold escarpment beyond. The west façade of Charles Baker's two-storey, Regency addition to the house incorporates a grand entrance with a projecting portico and paired giant Tuscan pilasters (see Plate 5).
- 7.7 The two principal phases of the enlarged mansion remain easily distinguishable today. Ogilvy's original stucco villa now forms the northern portion of the administration block of St Edward's School, complete with separate internal staircase. Close scrutiny of the 1846 estate plan (see Figure 5) compared with the later Ordnance Survey 1:500 scale map of 1885 (see Figure 6) reveals that, following the construction of Nathaniel Hartland's later Regency mansion, further substantial phases of alteration and extension to the property took place during the 19th century. The largest of these was a substantial extension to the western side of Ogilvy's original slender stucco villa, effectively doubling the size of the rear service wing. This led to an uncomfortable architectural juxta-position with the rear elevation of Hartland's mansion, necessitating a somewhat curious splayed recess where the new service wing met the tall, north-facing staircase window to the mansion, thereby compromising the rear elevation (see Plate 6).
- 7.8 Equally notable, but of smaller scale, was the apparent addition of a further bay to the two-storey, west elevation of Hartland's mansion. This was carried out seamlessly in exactly matching limestone ashlar materials and detailing, but had the effect of making the west elevation asymmetrical. The north-facing end wall of this extension is completely windowless (see Plate 7). A Gothic bay window was added to the east elevation in the 1840s and later in the 19th century a small first-floor oriel window (see Plate 8).

- 7.9 It is clear from the above analysis that the northern wing of Ashley Manor has been subject to alteration and extension in the past, and that its north facing elevation never had high architectural status. Its relatively low architectural quality, and functional appearance has been compounded by subsequent utilitarian alterations and modern accretions in the 20th century. In short, the stucco north elevation has nothing of the Classical, balance, order and elegance of the later ashlar stone-faced south and west elevations (see Plate 4).
- 7.10 Whilst there are no windows to principal rooms facing north towards the application site, the elevation does however, have a number of other windows facing north, including a semi-circular headed corridor window, some ancillary office windows and the tall staircase window that I have previously mentioned.
- 7.11 The interior of the later, south-west portion of Ashley Manor contains many original Regency features including ornate plasterwork as befits the house of a wealthy entrepreneur of the early-mid 19th century. The entrance hall incorporates shallow, saucer domes, decorated with Greek Key patterns (see Plate 9). The south-facing principal room overlooking the gardens (originally the drawing room but now a chapel) is richly decorated with scagliola columns leading into the impressive bow windows (see Plate 10). The room also contains a marble fireplace and a richly decorated plaster frieze and cornice.
- 7.12 To my mind the most striking architectural characteristic of Ashley Manor is the fact that it is so very strongly orientated to the south, with a second formal façade on the west side, incorporating the main entrance portico addressing the carriage drive approach. Even with the most cursory of visual inspection of the fabric it is immediately obvious that only the south, west and east elevations of Hartland's later mansion, together with the retained parts of the earlier house are faced in stone, whilst the utilitarian north facing elevations are faced in stucco. This clearly indicates to me that it is the south and west frontages of the mansion, facing towards the designed landscape grounds that are of most importance architecturally. Effectively, the mansion turns its back on the land to the north.
- 7.13 An illustration of Ashley Manor in the mid-19th century, held in Gloucestershire Archives, is a lithograph by George Rowe showing a view of the house looking north, with the pleasure grounds to the south of the house in the foreground incorporating managed lawns, mature planted beds, specimen trees and other features of the landscaped pleasure grounds (see Figure 7). Although undated, this predates late 19th-century replacement of the Classically styled, semi-circular stable and coach house range to the east of the house. This illustration shows the importance of the designed landscape to the south of the house in relation to its principal elevation.

- 7.14 In 1955 the house was acquired by the Carmelite Order, and converted into the Whitefriars School, a Catholic Boys' school. Subsequently the building became the St Edward's School. Following the change of the building to educational use, extensions were added and other structures erected in its grounds. As a consequence, its setting became much-altered.

Ashley Manor - significance and setting

- 7.15 Ashley Manor is significant in both architectural and historical terms. Architecturally the building is particularly significant as of a good example of a suburban Regency mansion considered to be one of the finest houses in the Cheltenham area. It is particularly notable for its surviving fine interior plaster decoration, an attribute noted in the list description, and likely to have contributed to the high listing grade of the building. Historically, Ashley Manor is significant because of its connection with Nathaniel Hartland, one of Cheltenham's most influential figures of the early-mid 19th century. The particularly special architectural and historic significance of Ashley Manor is reflected in its status as a grade II* listed building.
- 7.16 The presence of large, utilitarian, modern school buildings, car parking areas, tennis courts, sports pitches and other school paraphernalia, are present in the setting. Plates 11-14 are views of the utilitarian school buildings to the east and south-east of the listed building. The modern school buildings prevent visibility of the appeal site and views of Charlton Manor from the landscaped setting directly south of Ashley Manor.
- 7.17 Important aspects of the historic setting of Ashley Manor still survive, including the sinuous, tree-lined, carriage drive approach to the house, running north-south from London Road (see Plate 15), culminating in a carriage sweep alongside the west entrance portico. The historic carriage sweep incorporates a pair of separately, grade II listed stone gate piers of squat proportions (see Plate 16). There are also the vestiges of the formal, designed landscape setting immediately surrounding the house, as well as survivals of the pleasure grounds, including specimen mature trees and a grade II listed octagonal, tented roof, summer house of circa 1837 (probably designed by Charles Baker for Nathaniel Hartland). The ability to appreciate the remaining setting is, however, considerably compromised by the presence of the immediately adjacent, large, modern blue-surfaced, hard tennis courts, which have resulted in the reprofiling of the landform (see Plate 17).
- 7.18 As I have previously highlighted, the appeal site, whilst historically forming part of the land within the ownership of Ashley Manor, appears never to have been part of a formal, designed parkland landscape. Rather, it was in functional use

as grazing land. This is evidenced by the estate map of 1846, which depicts the pleasure grounds described above, but merely denotes the appeal site as 'pasture'. Further evidence of this historically more utilitarian function of the land in question is provided by the second edition six-inch Ordnance Survey map (Revised: 1901 Published:1903). This usefully depicts the parkland by means of the then established convention of shading, and clearly shows the parkland as being restricted to the southern part of the estate, namely the present-day school land, containing the surviving features of the designed parkland that I have described above (see Figure 8).

- 7.19 The appeal site can be appreciated to some extent from the area of the carriage sweep in front of the west façade of Ashley Manor, although the steep topography of the land, coupled with the presence of mature trees along the southern boundary of the appeal site limits the ability to appreciate its currently undeveloped open nature.
- 7.20 The unmitigated presence of a large, single-storey, modern, hipped roof kindergarten school building, of bungalow-like proportions, cut into the rising land to the immediate north of Ashley Manor means that the contribution of the eastern portion of the appeal site to the setting and significance of the listed building is not readily appreciated at ground level (see Plate 18). Views of this portion of the appeal site can be had from north-facing upper floor windows within the rear (north) wing of Ashley Manor. These views are seen over the roof of the modern, single-storey school building referred to above (see Plate 19).
- 7.21 Restricted views of the eastern portion of the appeal site are also available from some north-facing ground floor windows in the north wing of Ashley Manor, e.g. the Bursar's Office. Additionally, glimpses of the central part of the appeal site are available from the tall, north-facing staircase window in the main part of the mansion. However, views of the appeal site from this window are restricted by intervening mature tree planting (see Plate 20).
- 7.22 The setting of Ashley Manor contributes to its significance as a designated heritage asset. The setting includes the surroundings in which the heritage asset is experienced.
- 7.23 First and foremost, the setting comprises the land directly surrounding the building that includes the carriage sweep, incorporating the pair of stone gate piers, which are very much part of the immediate setting of the house.
- 7.24 Secondly, but slightly more diffuse, is the wider area south of Ashley Manor in which are located the remnants of the historic designed landscape on the falling ground below the house. This constitutes the surviving part of the

planted pleasure grounds in which the Cotswold escarpment to the south forms an important backdrop.

- 7.25 Thirdly, further away from the house, is the wider largely undeveloped school recreation fields, through which passes the tree-lined carriage drive from the south, which historically formed part of the designed landscape approach to the house.
- 7.26 Although the immediate setting and designed landscaped surroundings of Ashley Manor have plainly been affected by the addition of modern school buildings, tennis courts and parking areas, the essential, historical spatial relationship with the listed building still survives.
- 7.27 Fourthly, the setting of Ashley Manor also includes the appeal site to the north. I consider that the Cheltenham Plan allocation site contributes modestly to the wider setting and significance of Ashley Manor, through its historical and functional association, and its visual connection. Even at this fourth tier of setting, I think the setting can be divided into two. The eastern portion of the appeal site, encompassing the historically associated former ice house, is the most important to the setting of Ashley Manor. The western and central parts far less so, especially away from the southern boundary of the site.
- 7.28 Finally, the wider landscape beyond the immediate surroundings of the site has a slightly lesser role to play in terms of the setting of Ashley Manor. It must be recognised that much of the intervening land in this part of Cheltenham is set within the context of a large town.

Charlton Manor – historical background and description

- 7.29 Immediately adjacent to the appeal site towards its north-east corner is the grade II listed Charlton Manor. Dating from 1864, and originally known as *Simla Lodge*, and later as *The Leasowe* the building was the first of many substantial mansions to be built on the Battledown Estate. It is thought to have been developed by the speculator, Charles Andrews to the designs of Henry Dangerfield, the Borough Engineer for Cheltenham.
- 7.30 The house is designed in an eclectic Gothic Revival style. The original portion of the building is of two storeys, plus an attic storey in its western wing. It is constructed of limestone rubble, laid to the 'crazy' pattern, with ashlar dressings. The two gables in the attic storey incorporate mock timber framing. The house has steeply-pitched roofs with decorative barge boards, banded clay tile roof covering and tall ashlar limestone chimney stacks. The main windows to principal rooms are of wide mullion-and-transom type, some of canted bay design.

- 7.31 The east, road-facing frontage to Ashley Road incorporates a pair of steeply-pitched gables with decorative barge boards. At ground floor level there is a large splayed bay window to the sitting room, a smaller splayed bay window to the right and a wide, four-mullioned window to the kitchen. There are three, tall three-light mullioned windows to first floor bedrooms, and a dormer window with a shaped masonry gable. This elevation also incorporates an entrance door. When originally constructed, prior to the development of further houses on the eastern side of Ashley Road, it is likely that the house would have enjoyed more open views to the east. The house is today largely screened on its east side from public view along Ashley Road by a high conifer hedge, together with some mature deciduous trees (see Plate 21).
- 7.32 The principal elevation of Charlton Manor faces south, and incorporates the large, projecting main entrance porch as well as an array of large windows to the principal rooms of the house, including wide, south-facing mullion-and-transom windows to the Drawing Room, Morning Room (originally the Dining Room) and the Sitting Room, as well as the large, south-facing, mullioned window to the principal bedroom, other south-facing bedroom windows and an impressive south-facing oriel window. There is also a wide, south-facing window within the mock-Tudor gable to the attic storey bedroom. The south elevation was clearly designed to take particular advantage of views looking south across the sloping gardens towards the nearby Cotswold escarpment including Leckhampton Hill.
- 7.33 The west elevation of Charlton Manor has a fenestration pattern that takes advantage of views looking west and south-west across the appeal site, historically in the ownership of Ashley Manor. The ground floor drawing room has two windows facing west. Two first floor bedroom windows also face west, as well as an attic storey window. The views from these windows clearly embrace the surrounding garden land to the west of the property as well as the immediately adjacent part of the appeal site to the west, which incorporates the former ice house. They also include views towards the nearby Cotswold escarpment to the south-west as well as more distant glimpses of higher ground to the west. Plate 22 is a general view of the south and west elevations of Charlton Manor looking north-east from within the appeal site.
- 7.34 An 1897 sales brochure for the house, at that time known as *The Leasowe* (held in Gloucestershire Archives), is helpful in gaining an appreciation of the layout of the house in relation to its surroundings. It emphasises in particular the rooms with a southerly aspect over its garden and pleasure grounds. The brochure contains a photograph of the view looking south across the richly planted gardens towards Leckhampton Hill (see Figure 9). I note that the 1897

sales brochure refers to the large attic storey room as a ‘*Servants’ bedroom*’. A more recent sales brochure of 2008 refers to this room as bedroom 9.

- 7.35 Charlton Manor has undergone a number of phases of alteration and extension. A coach house and stable range of sympathetic form, but simplified design was added to the north of the building in the early 20th century. This was subsequently converted to garaging. Later additions to the building have been added with less architectural sympathy, including a two-storey, flat-roofed, rendered linking block between the house and the stable range, incorporating large, tinted glass windows with bronze frames and a glazed balustrade. A large array of black solar panels has been mounted on the decorative clay tile, south-facing roof of the stable range. Plate 23 is a view of the west elevation of Charlton Manor showing the modern alterations to the listed building.

Charlton Manor – significance and setting

- 7.36 Charlton Manor is significant in both architectural and historic terms. Architecturally it is significant as a good example of a large mid-19th century Gothic Revival mansion designed by Henry Dangerfield, the Borough Engineer for Cheltenham. It is historically significant as the first of the large mansions to be built on the Battledown Estate. The special architectural and historical significance of Charlton Manor is reflected in its status as a grade II listed building. Whilst the significance of Charlton Manor derives principally from its intrinsic architectural quality and its historical interest, its wider landscape setting, embracing views to the south and views over the open land to the immediate west, contributes to its significance.
- 7.37 The immediate garden setting of Charlton Manor on its western side has been the subject to various changes in recent years, including the erection of a number of permanent structures. These include a modern swimming pool and associated paved terrace, a large timber pergola, a cast iron Victorian style gazebo, a colonnade of Victorian style cast iron columns, and a built-in masonry outdoor catering facility, incorporating a plumbed-in sink unit and servery. Along the western boundary with the appeal site, for part of its length, is a modern, low, rendered wall, surmounted by dwarf iron railings of low swept pattern, set between raised stone piers. This modern boundary wall and railings replaces the tall evergreen hedge that formerly defined the mutual boundary with the appeal site, and now affords views from the swimming pool terrace into the appeal site. It incorporates a metal gate giving access to the Appellant’s land. The wall, railings and gate appear to have been erected without the benefit of the necessary planning permission. Plate 24 is a view of the garden on the west side of Charlton Manor showing the extensive array of modern changes to its immediate setting.

- 7.38 The setting of Charlton Manor includes the surroundings in which the heritage asset is experienced. These surroundings include, first and foremost, the immediate garden land on the southern and western side of the house, albeit that a substantial portion of the once extensive garden to the south was truncated in the 20th century and subdivided into four large detached house plots. The remaining garden land has been much-altered in recent years as I have described above. The setting of Charlton Manor also includes the appeal site and the wider landscape beyond.
- 7.39 In my opinion, the immediately surrounding garden land is the most important part of the listed building's setting, followed by the immediately adjacent (eastern) part of the application site, across which can be seen south-westerly views towards the nearby Cotswold escarpment. The eastern portion of the appeal site includes the former ice house with which Charlton Manor has a fortuitous rather than a designed relationship. It is, of course, this portion of the site that is to be kept free of development in the current appeal proposal. The wider setting of Charlton Manor, embracing views looking south across the garden towards Leckhampton Hill, also contributes to the building's significance. Views to the west, embracing far-distant glimpses of the Black Mountains (approximately 40 miles/64km due west) are, in my opinion, a much smaller, and less important component of the significance of the listed building in comparison with views of the much closer Cotswold escarpment to the south and south-west.

The former ice house – description and significance

- 7.40 Approximately 110 metres to the north of the nearest part of the grade II* listed Ashley Manor, within the eastern portion of the appeal site, lies a structure believed to be an ice house that formerly served Ashley Manor. This predominantly subterranean structure is visible above ground level in the form of a mound, surmounted by mature trees. The mound has also become overgrown with scrub, which detracts from its legibility.
- 7.41 The 1846 estate plan that I have previously referred to, denotes the mounded structure within the field to the north of Ashley Manor as 'Reservoir' (see Figure 10). An undated plan, held the Gloucestershire Archives, showing potential railway routes across the estate, therefore undoubtedly dating from the 1840s, denotes the mounded feature with the letter 'p'. The key on the plan describes this as '*Well from which the Water flows to the top of the House*', likewise suggesting a water storage function. Subsequent Ordnance Survey maps from the late 19th century onwards, however, consistently denote the mounded structure as 'Ice house'. Figure 11 is an extract from the first edition 1: 2,500 scale Ordnance Survey map of 1886-1887, showing the mounded structure as 'ice house'. It is conceivable that the predominantly subterranean structure

might have been adapted for a new purpose in the latter part of the 19th century, or perhaps was simply incorrectly described on historic maps. It would certainly be unusual in my experience for an ice house to be located in an open, elevated location. Nevertheless, regardless of the exact original function of the structure, it is clearly located within land historically in the ownership of Ashley Manor, and will have been built to serve it. For the avoidance of doubt, I will hereafter refer to the mounded feature as 'the former ice house'.

- 7.42 The former ice house is a functional structure that was located away from Ashley Manor in open fields to the north, rather than in the designed landscape that I have previously described to the south of the house. It is located part way up the slope of the eastern portion of the application site. There is intervisibility between the former ice house and Ashley Manor.
- 7.43 Also present in the view from Ashley Manor is the kindergarten building. The shallow pitched design of the modern school building, cut into the slope of the land, with its single-storey, hipped roof form, limits its visual intrusion in views of Ashley Manor from the former ice house. Plate 25 is a view from the vicinity of the former ice house looking south towards of Ashley Manor, showing the mature trees and scrub on the mound.
- 7.44 As well as its historical and visual relationship with Ashley Manor, the former ice house has a visual relationship with Charlton Manor, which lies approximately 90 metres to the east. The former ice house, however, does not have any historical or functional connection with Charlton Manor. This fortuitous visual interrelationship makes a positive contribution to the setting of Charlton Manor. The undeveloped nature of the intervening land means that there are currently unobstructed views of the former ice house from Charlton Manor (see Plate 26).
- 7.45 The former ice house is not separately designated as a listed building. However, Cheltenham Borough Council considers that the former ice house meets the criteria to be defined as a curtilage structure to the grade II* listed Ashley Manor due to its physical location, ownership (historically and at the time of listing of Ashley Manor) and due to its ancillary function in relation to the listed building. As such the former ice house is significant architecturally and historically.
- 7.46 The former ice house draws significance from its setting and in particular from its visual relationship with Ashley Manor with which it is historically and functionally related. In summary, the former ice house can be said to contribute to the setting of both Ashley Manor, with which it is historically associated, and with Charlton Manor. The open aspect of the eastern portion of the appeal site

between the two listed buildings, incorporating the ice house, contributes to the setting and significance of all three heritage assets.

Glen Whittan – description and significance

- 7.47 Abutting the western part of the application site, on the north side is an unlisted residential property known as Glen Whittan. This building was constructed sometime between 1903 and 1923 since it first appears on Ordnance Survey mapping of 1923. As such, it forms part of the later phase of the Battledown Estate that was still expanding in the early 20th century.
- 7.48 Glen Whittan is a large, two-storey house with an imposing principal elevation that faces south-west, taking in views across part of the application site. It is set well back behind mature gardens. The house is constructed of red brick under a plain tiled, hipped roof with tall brick chimney stacks. It is of distinctive Edwardian design, with a 'Colonial' style balcony supported on decorative cast iron columns, flanked by two projecting full-height splayed corner bays with parapets. To the righthand (east) side there is a two-storey modern extension with a shallow roof and large windows at ground and first floor levels. Although not listed, Glen Whittan has some modest local heritage significance as part of the later phase of development of the Battledown Estate and as such may be regarded as a non-designated heritage asset.
- 7.49 The immediate setting of Glen Whittan comprises its large, mature gardens. The wider setting embraces part of the application site to the south. With its large, south-west facing windows, the house has clearly been designed to take advantage of south-west views. Plate 27 is a general view of the principal (south-west) elevation of the house.

8.0 Observations on the Members' reasons for refusal and third-party objections

- 8.1 In this section I comment on the matters raised in Cheltenham Borough Council's reasons for refusal No.1, as amplified in their Statement of Case (**CD C6**).
- 8.2 The Charlton Kings Friends (CK Friends) have been granted Rule 6 status at this inquiry and have raised a number of heritage issues within their Statement of Case (**CD C7**). The issues raised by CK Friends overlap to a large degree with those cited in the Members' reasons for refusal. Therefore, in addressing the reasons for refusal I also deal with the issues raised by CK Friends.
- 8.3 The Members' reason for refusal asserts that the appeal proposal would '*have a significant impact on the setting of nearby listed buildings*', and that the resultant 'less than substantial' harm to these designated heritage assets must be afforded significant weight. It asserts that the harm caused '*would fail to be outweighed by the public benefits arising from the proposal in the overall planning balance*'.
- 8.4 The Members' reason for refusal further asserts that '*The proposal for 43 dwellings against the policy requirement of 25 has led to a layout which does not respect the character significant [sic] and setting of heritage assets*'. For this reason, the Members consider that the appeal proposal is in conflict with Policy HD4 of the adopted Cheltenham Plan.

Impact of the appeal development on Ashley Manor

- 8.5 As I have described previously, the appeal proposals concentrate built form away from the more sensitive, eastern portion of the appeal site that lies immediately to the north of Ashley Manor, keeping that part of the site entirely free of development. Although not forming part of the designed landscape around Ashley Manor, the land to the north fell within its ownership, and was grazed pastureland. It incorporated the former ice house, with its prominent mound, surmounted by trees. By keeping this part of the site free from built development, the open aspect to the north of Ashley Manor will be preserved, allowing unobstructed views towards the former ice house. Intervisibility between Ashley Manor and Charlton Manor will similarly be preserved.
- 8.6 As well as avoiding any built form in the eastern part of the appeal site, development in the remainder of the site is to be set a considerable distance

away from the west elevation of the grade II* listed Ashley Manor. No development is proposed directly west of the Ashley Manor. The southern part of the development is completely free from built development. The closest element of built form (Unit 17) to the listed building (the north-west corner of the stucco north wing) is approximately 75 metres.

- 8.7 The most southerly part of the appeal site will be free from development. Within this area, a small permanent pond will be created for water quality improvement and biodiversity. The gently shelving banks of this pond will be planted with native marginal plants for wildlife biodiversity. This new landscape feature will have no adverse impact on the setting of the Grade II* listed Ashley Manor.
- 8.8 The broad band of retained grassland will be backed by a proposed broad belt of native woodland planting, of approximately 20 metres in depth. The introduction of a belt of woodland planting, will provide a substantial and appropriate visual buffer between the grade II* listed Ashley Manor and the closest part of the proposed development. It will ensure that, where views of the new dwellings are available from the vicinity of the listed building, their visual impact on its setting will be mitigated to a substantial extent. As the proposed woodland planting belt matures, the visual impact of the proposed new dwellings will diminish. Together, the broad band of retained grassland and the belt of native woodland planting will ensure that a green backdrop immediately to the north of the carriage sweep will be maintained.
- 8.9 Contrary to the Members' assertions, I consider that the appeal proposal has led to a layout which does respect its character, significance and setting of heritage assets. Indeed, having been directly involved in the shaping of the appeal proposals, I can state unequivocally that, in respect of Ashley Manor, the layout of the appeal development has been conceived with the express intention of respecting its setting, and thereby seeks to minimise harm to its significance.
- 8.10 Contrary to the Members' reason for refusal, I consider that it is incorrect to assert that the layout of the appeal proposal has not been designed to respect the setting of Ashley Manor, or that it does not comply with the requirements of Policy HD4 of the adopted Cheltenham Plan in this regard. In direct response to the specific policy requirements of HD4, the proposed built form on the allocated site has been located well away from the setting of the west elevation of Ashley Manor as I have described. Furthermore, there is no development south of a straight line westwards from the rear of the northernmost school building. Indeed, the proposed layout considerably exceeds this minimum requirement, with built form of the appeal proposal approximately 33 metres to the north of this line.

- 8.11 Whilst the application proposals will, self-evidently, introduce built form into the currently undeveloped part of the allocated site to the north-west of Ashley Manor, I consider that the retention of a large area of green space immediately to the north of the grade II* listed building, coupled with the introduction of a broad new belt of native planting will mean that the impact of the proposed development on its setting will be minimal. Consequently, for all of the reasons I have outlined above, I consider that the level of harm caused to the heritage significance of Ashley Manor would be at the low end of less than substantial harm in the terms of the NPPF.

Impact of the appeal development on Charlton Manor

- 8.12 The concentration of built form within the appeal proposals is set well away from the more sensitive, eastern portion of the appeal site, thereby ensuring that the open aspect to the immediate west of Charlton Manor will be preserved, and that unobstructed views towards the former ice house will be maintained. Intervisibility between Charlton Manor and Ashley Manor will similarly be maintained. The introduction of a broad belt of native woodland planting, in combination with retained mature planting provide a substantial visual buffer between the listed building and the nearest developed parts of the proposed development to the west.
- 8.13 At Figure 12 of Appendix A I provide a plan of the appeal site indicating the distances between the parts of Charlton Manor and the nearest elements of built form within the proposed development. This shows that the closest house to Charlton Manor would be Unit 22, which would be located approximately 80 metres from the western garden boundary of the listed building. The nearest west-facing window within Charlton Manor would be that of the ground floor billiard room, which would be approximately 99 metres from Unit 22. The west-facing bay window of the ground floor drawing room, and the first floor bedroom windows above would be approximately 118 metres from Unit 22. The west-facing attic storey bedroom window (the former servants' bedroom) would be approximately 107 metres from Unit 22. The nearest component of proposed built form in the central area of the appeal site would be over 163 metres from the main west-facing windows of Charlton Manor.
- 8.14 The Appellant's team has prepared a series of photomontages, modelling the views towards the appeal site from the vicinity of the western garden boundary of Charlton Manor. These views illustrate the development with its landscape buffer planting at intervals of 1 and 8 years (see Verified Views Technical Note, prepared by MHP Landscape Architects). The photomontages are based on photographs taken at ground and first floor level heights, and are intended to provide as accurate an impression as possible of the likely views from the main west-facing ground and first floor windows within Charlton Manor.

- 8.15 Whilst these photomontages show that the appeal proposals would, self-evidently, have some visual impact on westerly views from the listed building and the immediate vicinity, I consider that they demonstrate that the effect on the significance of the listed building would be minimal. The photomontages demonstrate that important south and south-west views towards Leckhampton Hill and other parts of the nearby Cotswold escarpment would remain unimpeded as a result of the appeal proposals. Mutual intervisibility with Ashley Manor and the former ice house will similarly be unaffected. Whilst visible in the middle ground, the proposed development would not, for the most part, breach the horizon, and thereby not preclude more long-range views towards the west. Distant glimpses of the Black Mountains would still be available.
- 8.16 Having regard to the specific policy requirements of HD4 of the recently adopted Cheltenham Plan, I consider that, contrary to the Members' assertions, the appeal proposal respects the character, significance and setting of Charlton Manor as a designated heritage asset. Having been directly involved in the formulation of the appeal scheme, and in negotiating it with the Council's Senior Conservation Officer, I can say unequivocally that particular care has been taken to respect the setting of Charlton Manor, and to thereby minimise harm to its significance.
- 8.17 In direct compliance with HD4, the proposed housing on this allocated site has been located well away from the western boundary of the Charlton Manor, providing an undeveloped buffer between the rear garden boundary of the listed building. The new development incorporates a landscaping buffer, well in excess of the 30 metres west of the rear boundary with Charlton Manor as required by the policy. As with Ashley Manor, I therefore consider that it is incorrect for the Members to argue that the layout of the appeal proposal does not respect Charlton Manor, or that it does not comply with the requirements of Policy HD4 of the adopted Cheltenham Plan in this regard.
- 8.18 The appeal proposals will introduce built form into the currently undeveloped land in the central and western part of this allocated site. However, I consider that the retention of a large area of green space immediately to the west of Charlton Manor, the significant distances between the listed building and the appeal development, and the proposed intervening, broad belt of native woodland planting, will mean that the visual impact of the appeal development, and consequent harm to its heritage significance, would be limited. Plainly, the trees will take time to mature, but we are here looking in the context of a long-term historical landscape. Trees have, of course, been a significant feature of the appeal site, and I see nothing unnatural about the proposed planting in that context. For the reasons I have outlined above, I consider that the level of harm caused to the heritage significance of Charlton Manor would be at the low end of less than substantial harm in the terms of the NPPF.

Impact of the appeal development on the former ice house

- 8.19 An important feature within the retained area of green space north of Ashley Manor and west of Charlton Manor is the former ice house, visible within the landscape as a mound, dominated by trees. Care has been taken in shaping the layout of the proposed development to ensure that the setting of the former ice house is respected.
- 8.20 There will be no houses located within the immediate vicinity of the former ice house. It will be screened from the developed part of the application site to the north and west by the proposed new, broad belt of native woodland planting. At the same time appropriate 'breathing space' has been preserved around the former ice house so that it will remain legible as a feature within the landscape. Importantly, its visual relationship and intervisibility with the grade II* listed Ashley Manor and the grade II listed Charlton Manor will remain unobstructed.
- 8.21 Policy HD4 of the recently adopted Cheltenham Plan, stipulates that '*Any development on the site should secure improvements to the Ice House*'. In specific response to this requirement the appeal proposals will involve the removal of scrub from the ice house mound, which would enhance its legibility, and facilitate greater understanding of its significance. In summary, the impact of the proposed development on the setting of the former ice house will be minimal, and it is therefore considered that the level of harm caused to its significance would be at the low end of less than substantial harm in the terms of the NPPF.

Impact of the appeal development on Glen Whittan

- 8.22 The principal elevation of the large, Edwardian red brick house known as Glen Whittan faces south-west, taking in views across the northern part of the application site. The unlisted house is set well back from the application site, behind a very large mature garden, which forms the majority of its setting. Despite this, the layout of the application proposals has been conceived in such a way as to leave undeveloped green space between the southern garden boundary of Glen Whittan and the nearest part of the residential development. The Appellants have accepted that the properties in this location will have small rear gardens. This part of the application site will also incorporate a substantial, retained part of the mature tree belt that runs north-south across that side of the site. Consequently, I consider that the visual impact on the setting of Glen Whittan, as a non-designated heritage asset, will be slight, and that slight harm will be caused to its significance as a non-designated heritage asset. In accordance with the requirements of paragraph 197 of the NPPF, this negligible harm should be taken into account, and a balanced judgement made in determining the application.

Summary of observations on the Council's reason for refusal

- 8.23 For the reasons outlined above, I wholeheartedly disagree with the Members' assertion in the Council's Statement of Case that the appeal proposal does not respect the character, significance and setting of heritage assets. On the contrary, I believe that the appeal proposals represent an intelligent, well thought out response to the heritage and other constraints of the site that respects the settings and significance of the two listed buildings, as well as the setting of the ice house.
- 8.24 Again, it should be noted that, as set out in the officer's report to the Planning Committee (**CD A102**) that the Council's Senior Conservation Officer concluded as follows, in respect of the appeal proposal:

'The proposal has been significantly amended since the previous proposals to address the reasons for refusal. Notable is the decrease in the number and location of dwellings, and the proposed extensive landscaping measures to reduce and mitigate the visual impact of the development proposal on the heritage assets and their settings. Cumulatively these measures, and the acceptance of the public benefits of the proposal, are considered to result in a proposal that, on balance, should not be objected to in heritage terms'.

Observations on representations made by Charlton Kings Friends

- 8.25 The Statement of Case prepared by CK Friends (**CD C7**) sets out the general scope of their arguments against the appeal proposals. Paragraph 3.1 of CK Friends Statement of Case states that it will support and where necessary augment the Council's case on heritage grounds. Paragraph 3.2 of CK Friends Statement of Case states that their heritage case is to be based on the written Heritage Statement provided by Dr Nicholas Doggett of Asset Heritage Consulting, dated December 2020 (**CD H22**).
- 8.26 A most remarkable aspect of the introduction of the Heritage Statement by Dr Doggett is that he presumes, at paragraph 1.4, to undertake the planning balance, stating that in his '*professional opinion*' that the appeal proposals are '*of such a scale that the harm they would cause is sufficient to outweigh any public benefits that the appellants will no doubt claim would flow from them*' (*my emphasis*). On this basis Dr Doggett, at paragraph 1.5 of his statement, urges the Inspector to dismiss the appeal. I find this statement extremely surprising, not only because Dr Doggett is not, by profession, a qualified town planner, but also because nowhere in his statement does he discuss the public benefits of the scheme, let alone attempt to evaluate them. He is therefore clearly not in a position to undertake the planning balance.

- 8.27 CK Friends cite harm to two heritage assets, namely, the grade II* listed Ashley Manor and the grade II listed Charlton Manor. CK Friends position, as expressed on their behalf in Dr Doggett's Heritage Statement, is, that they consider that the impact on the significance of listed buildings amounts to 'less than substantial harm' in the terms of the NPPF, a position shared by the Appellant and the Council. However, the contention of CK Friends, as set out in Dr Doggett's statement, is that the appeal proposals are '*highly damaging to the significance of the settings*' of Ashley Manor and Charlton Manor, and that the degree of harm to their significance falls towards the upper end of the scale of less than substantial harm. I profoundly disagree with these assertions for the reasons I have already outlined.
- 8.28 At paragraphs 2.1 – 2.5 Dr Doggett discusses the contribution that the appeal site makes to the setting of the grade II* listed Ashley Manor. In doing so he draws on the past comments of the 2019 appeal Inspector, and those of Historic England. He concludes that '*there can be no doubt that great significance lies in the contribution that the open land to the north of Ashley Manor (i.e. the appeal site) makes to its setting as a Grade II* listed building*'. I disagree with Dr Doggett's sweeping conclusion that the appeal site (in its entirety is of '*great significance*' in terms of its contribution to the setting of Ashley Manor. Indeed, if one reads the relevant paragraphs of the 2019 appeal Inspector's decision letter carefully and in context, it is clear that the main focus of his concerns was the mainly open, eastern part of the site, encompassing the tree-covered mound of the former ice house. My opinion is likewise, that it is the mainly open eastern portion of the appeal site that makes the most important contribution to the setting of Ashley Manor, and that other parts of the site, further to the west, are less sensitive.
- 8.29 At paragraphs 2.6 Dr Doggett expresses the opinion that the appeal site makes '*a fundamental contribution*' to the setting of the grade II listed Charlton Manor. Whilst I agree that the appeal site makes a contribution to the significance of Charlton Manor as a designated heritage asset by virtue of its visual relationship, I do not agree that its contribution is '*fundamental*'. i.e. that it forms a necessary base or core, or that it is of central importance to the significance of the listed building. As I have previously commented, I consider that the immediately surrounding garden land is the most important part of the listed building's setting, followed by the immediately adjacent part of the application site, across which can be seen south-westerly views towards the nearby Cotswold escarpment. It is, of course, this portion of the site that is to be kept free of development in the current appeal proposal. The wider setting of Charlton Manor, embracing views looking south across the garden towards Leckhampton Hill, also contributes to the building's significance. Views to the west, embracing far-distant glimpses of the Black Mountains (approximately

64Km/40 miles away) are, in my opinion, a much smaller, and less important component of the significance of the listed building.

- 8.30 At paragraph 2.8 of his Heritage Statement, Dr Doggett discusses the architectural treatment of what he describes as the '*rear elevations*' of Charlton Manor. The content of these paragraphs is erroneous and misleading in a number of respects. In the first instance, he asserts that the Heritage Impact Assessment that I prepared in support of the appeal proposals at application stage acknowledged that '*the rear elevations of the house are at least as important in architectural and historic terms as the front one*'. That is simply not the case. Indeed, my Heritage Impact Assessment made clear that the principal elevation of Charlton Manor was the one facing south, incorporating the main entrance porch and a number of large stone-mullioned windows, clearly intended to take advantage of views looking south across the terraced gardens towards Leckhampton Hill. The true 'rear elevation' of the house is the utilitarian one facing north towards the rear yard, not those facing south and west.
- 8.31 At paragraphs 2.9 – 2.11 Dr Doggett discusses the views that can be had from ground and first floor windows of what he terms the '*back of the house*' – I take this to mean the south and west elevations. I have not, at the time of preparing this proof of evidence, been afforded the opportunity of experiencing these views at first hand, or indeed have I been permitted to assess views from the garden land of Charlton Manor. The owners have refused me access, nor have I been provided with representative photographs of these views, despite requesting them as an alternative from the objectors at Charlton Manor. I have, however, been assisted in forming my opinion on the likely impact of the appeal proposals upon these views by means of accurate photomontages commissioned by the Appellant. taken from a position on the western garden boundary of Charlton Manor. I recognise that, in addition to the wide principal (south) elevation of the house having been designed to take advantage of elevated views, the fenestration pattern of the narrower west elevation was designed, to some extent, to take advantage of views looking west across the appeal site, although from close examination of both elevations it is clear that the west view is secondary, with fewer large windows than the principal (south) elevation (see Plate 22).
- 8.32 Paragraphs 2.15 – 2.17 of Dr Doggett's Heritage Statement focus entirely upon the 2019 appeal Inspector's comments on that appeal, making no reference to the current appeal proposal. It is hard to understand the relevance of any of this material, since it relates to a substantially different proposal. For example, paragraph 2.15 relates to the obstructing effect of new planting along the southern boundary of the appeal site, close to Ashley Manor. This was a feature of the 2019 appeal scheme but, as I have previously stated, does not

form part of the current appeal proposals. In a similar vein, paragraph 2.16 relates to the effect of the 2019 appeal scheme in relation to the setting of Charlton Manor, in which development in the eastern part of the appeal site, close the garden boundary of the listed building, would partly obstruct distant views, and obscure the former ice house. The exclusion of any development in this location in the current appeal scheme renders these comments, and the previous appeal Inspector's conclusions cited at paragraph 2.17 of Dr Doggett's statement, entirely irrelevant. The photomontages that I have previously referred to clearly demonstrate that the appeal scheme would not obstruct views of the former ice house or, for the most part, more distant views.

- 8.33 At paragraph 2.18 of his Heritage Statement, Dr Doggett concedes that the appeal development is '*reduced in extent*' from the scheme dismissed at appeal in 2019, and surmises that '*the appellants will no doubt seek to argue that their new scheme addresses all the heritage concerns expressed by the 2019 Inspector*'. In this vein he goes on, at paragraph 2.19, to criticise the approach taken in the Heritage Impact Assessment that I prepared in support of the appeal scheme at application stage, as well as the position adopted by the Council's Senior Conservation Officer in his internal consultation response of 7 July 2020.
- 8.34 At paragraph 2.20 Dr Doggett asserts that '*none of the Inspectors specific concerns are addressed by them [Grover Lewis] or anyone else on the appellants' team*'. At 2.21 he goes on to argue that the appeal scheme does not address the '*clearly articulated concerns*', of the 2019 appeal Inspector, or those expressed by the Council's Senior Conservation Officer in his proof of evidence to the 2019 inquiry. These assertions are wholly untrue, and could hardly be more misleading. In fact, as I have previously highlighted, the primary focus of the 2019 appeal Inspector's concerns relating to the settings of the two listed buildings and the ice house, as expressed in his decision letter, was the effect of the part of the development that was proposed within the eastern portion of the site, together with the effect of proposed new screen planting along the eastern and southern boundaries of the appeal site. These were also the primary concerns of the Senior Conservation Officer, as clearly expressed in his proof of evidence for the 2019 appeal.
- 8.35 Therefore, far from ignoring the concerns of the 2019 appeal Inspector, and those of the Senior Conservation Officer, the appeal scheme expressly sets out to address their principal concerns in making a substantial reduction in the quantum of development, and keeping the eastern portion of the appeal site entirely clear of development, thereby respecting the settings of Ashley Manor, Charlton Manor and the former ice house. The appeal scheme also moves the development on the remainder of the site further away from the site's southern boundary, and hence further away from the west side of Ashley Manor. No new

planting is proposed along the eastern and southern boundaries of the appeal site, and instead a new belt of native planting is proposed within the site to mitigate the visual impact of the proposed development. No new development is proposed in the immediate vicinity of the former ice house.

- 8.36 At paragraph 2.22 Dr Doggett grudgingly concedes that the appeal scheme is *'slightly less damaging to the significance of the settings of Ashley Manor, Charlton Manor and the curtilage listed ice house than that dismissed by the 2019 Inspector'*. This statement demonstrates Dr Doggett's flawed understanding of the concept of setting and significance as set out in Historic England's good practice advice on *The Setting of Heritage Assets (GPA 3)* which makes it clear that *'setting is not itself a heritage asset'*, so cannot itself be damaged.
- 8.37 Dr Doggett goes on to state at paragraph 2.23 that the retention of open land in what he terms *'the south-east corner of the site'* is *'an improvement on what was offered before'*, but considers this to be *'only a very small one'*. To my mind these statements grossly under-rate the substantially diminished scale of the appeal development, and the consequently much-reduced impact that the appeal proposals would have on the settings of these assets.
- 8.38 Paragraphs 2.24 – 2.30 of Dr Doggett's Heritage Statement relate to the issue of tree screening, proposed as part of the current appeal scheme. Yet again, Dr Doggett relies on the comments of the 2019 appeal Inspector, and his comments regarding tree planting along the site's boundaries, despite the fact that such planting is not proposed as part of the current scheme. He also quotes the comments of Historic England in relation to the proposed tree belt, and concludes by concurring with their rather imprecise and misleading views in this connection.
- 8.39 In respect of the issue of tree screening, Dr Doggett quotes, at paragraph 2.27 of his statement, Historic England's guidance *The Setting of Heritage Assets (GPA3)*, paragraph 40 of which states, amongst other things, that: *'As screening can only mitigate negative impacts rather than removing impacts or providing enhancement, it ought never to be regarded as a substitute for well-designed development within the setting of heritage assets. Screening may have as intrusive effect on the setting as the development it seeks to mitigate, so where it is necessary, it too merits careful design'*. Having been directly involved in the formulation of the layout of the appeal proposals, including the disposition of the proposed native tree belt, I can say assuredly that the intended purpose of the planting is to mitigate, rather than entirely remove adverse visual impacts on this allocated development site. Its disposition,

depth and nature are the result of careful design, having regard to heritage, landscape and biodiversity considerations.

- 8.40 At paragraph 2.28 Dr Doggett opines that he sees no reason why the proposed tree belt should be considered compatible with the open views that Charlton Manor enjoys towards the Black Mountains. I wholeheartedly disagree with this opinion. Whilst I accept that the proposed tree belt will alter the views from Charlton Manor to some extent, I am of the opinion that this will substantially mitigate adverse impacts from development on this allocated site, but not obstruct the main views towards the local and more distant landscape. The visualisations prepared in support of this appeal demonstrate the proposed native planting belt will, by no means preclude all distant views from Charlton Manor. Rather, it will provide a fitting new contribution to the landscape that will serve to protect the settings of both Ashley Manor and Charlton Manor, and the former ice house in the long term.
- 8.41 In the conclusion of his Heritage Statement, Dr Doggett states that he is of the view that the appeal proposals would *'cause considerable and irreversible harm to the settings of the grade II* listed Ashley Manor, the grade II listed Charlton Manor and the curtilage listed ice house'*. He places the degree of harm caused to these heritage assets of his conclusion Dr Doggett *'towards the upper end of the scale of less than substantial harm'* in the terms of the NPPF. I strongly disagree with Dr Doggett's conclusions, and consider that the harm caused to these heritage assets would be at the low end of the scale of less than substantial harm.
- 8.42 The Statement of Case prepared by CK Friends asserts non-compliance with the site-specific criteria of Policy HD4 of the Cheltenham Plan. In particular, CK Friends state, at paragraph 3.3 of their Statement of Case that they do not accept the position agreed in the general Statement of Common Ground between the Appellants and Cheltenham Borough Council with regard to the term 'development' insofar as it relates to proposed works south of a straight line westwards from the rear of the northernmost school building.
- 8.43 I note from my exchanges with the CK Friends representative, in the course of preparing a Statement of Common Ground, that they consider that the construction of a subterranean attenuation tank (required to deal with excess surface water flow and storm water events) together with the small permanent pond required for water quality and biodiversity purposes, constitute 'development' that will cause harm to the significance of the grade II* Ashley Manor. Regardless of the fact that such works represent 'development' under the provisions of the s55 of the Town and Country Planning Act 1990, I profoundly disagree that such works would cause material harm to the heritage

significance of Ashley Manor. The proposed new permanent pond will be a small landscape feature with shallow graded banks, planted with marginal plant species intended for biodiversity wildlife enhancement. Far from causing harm, I consider that such a feature would represent an attractive and fitting addition to the managed landscape of the appeal site.

- 8.44 I have similarly learnt, from my exchanges with CK Friends in connection with the Statement of Common Ground, that CK Friends consider that the artificial badger sett proposed for the north-east corner of the site would harm the setting and significance of the grade II listed Charlton Manor. As with the water feature, I strongly disagree that this subterranean feature would harm the significance of the listed building.

Observations on representations made by Historic England

- 8.45 I am mindful of the Historic England consultation response to the appeal proposals at application stage, dated 12 May 2020 (**CD H21**) and note from its Statement of Case that Cheltenham Borough Council place particular reliance upon it. Similarly, as discussed above, CKF place considerable reliance upon it.
- 8.46 Historic England's consultation response is directed primarily on the impact of the proposed development on the significance of the grade II* Ashley Manor. It is clear to me, in reading the Historic England response, that their attitude to the housing allocation on this site remains deeply entrenched, and continues to be rooted in their previously-stated objection in principle to development on the land, as expressed in relation to the previously refused schemes.
- 8.47 The response from Historic England repeats their previously-stated assessment of the significance of Ashley Manor from consultation responses in respect of applications in 2017 and 2018. It sets out their view on those aspects of setting that they consider contribute to significance. I find myself in agreement with much of this factual background description. Where I differ is in Historic England's somewhat preposterous and pompous suggestion that Ashley Manor is analogous to Andrea Palladio's Villa Rotunda (Villa Capra), a UNESCO World Heritage Site.
- 8.48 Whilst it is true that Ashley Manor enjoys an elevated suburban location and, as a Regency mansion, is Classically-styled, the differences between the two buildings could hardly be more pronounced. The 16th century Villa Rotunda (Villa Capra) sits upon a hill top, a short distance outside the town of Vicenza in the Italian Veneto region. It has a completely symmetrical plan form, with four, identical, precisely proportioned elevations with massive pedimented

porticos, which connect to terraces with steps, giving panoramic views onto the surrounding landscape in all directions. All the principal rooms are on the first floor (Piano Nobile). With the exception of the later crowning dome, it was constructed in a single phase. The whole essence of the Villa Rotunda is its mathematical precision and its symmetry. The building has never been extended. Plate 28 is a general view of the Villa Rotunda, showing its hilltop location and symmetrical composition.

- 8.49 In contrast with the Villa Rotunda, the mid-19th century Ashley Manor was built part way up a hill slope, and has an entirely asymmetrical plan form, with four completely different elevations. As I have previously set out, it has two formal frontages; the principal south-facing elevation, designed to overlook the parkland towards the Cotswold escarpment to the south, and the west elevation with its entrance portico addressing the carriage drive approach. The principal rooms are on the ground floor. Ashley Manor was constructed in two main phases with later phases of substantial extension and alteration. The grandiose stone-fronted mansion for Nathaniel Hartland was grafted onto an earlier plain stucco villa, which became the service wing. The building has been extended several times, including major school extensions in the 20th century. In short, while Ashley Manor is undoubtedly a fine building in its own terms, it has little of the purity of architectural form, symmetry and composition of the Villa Rotunda. Consequently, in my view, referring to it in this context is unhelpful and misleading.
- 8.50 The Historic England response gives little, if any, credit to the substantial changes that have been made in shaping the appeal scheme with the specific aim of complying with the recently adopted development plan policy. Whilst acknowledging that the appeal proposals represent *'a less intensive form of development of the site'* than the previously refused scheme, the Historic England consultation response states that: *'...we still consider that the severance of the setting of Ashley Manor and the encroachment of development and associated landscaping towards the Grade II* building is harmful and an unacceptable quantum and form of development'*.
- 8.51 Misleadingly, page 3 of the Historic England letter quotes (selectively) the previous appeal Inspector's comments in respect of the setting of the grade II* Ashley Manor. The quoted Inspector's comments, referring to the rising land to the north of Ashley Manor as providing a *'green backdrop'* in distant views, are clearly directed primarily towards the eastern part of the site which provides a mutual setting between Ashley Manor and Charlton Manor, and encompasses the former ice house.
- 8.52 The claim by Historic England that: *'This enforces our continued view that it is the entire application site which makes an important contribution to the setting*

of the Grade II building and not just the areas closest to it* is to my mind a misrepresentation of the previous appeal inspector's comments. Viewpoint 1 of the Landscape and Visual Assessment (my Plate 29), referred to by Historic England, clearly shows that it is the open eastern part of the site that forms the predominant green back drop to Ashley Manor. It is this land that is to be left undeveloped in the appeal proposals. As I have previously highlighted, it is clear from a close reading of the 2019 appeal Inspector's decision letter, that his primary concern was focused on the eastern portion of the appeal site, containing the former ice house.

- 8.53 Historic England raise concerns regarding the proposed tree belt that forms part of the appeal proposals, asserting that this is sited '*within a few metres of the boundary which would effectively divorce the visual connection between the carriageway approach to the west elevation of Ashley Manor and its open setting beyond*'. I consider this rather imprecise statement to be misleading. Rather than '*a few metres*' the tree belt is set approximately 30 metres from the southern boundary of the site, leaving an appreciable area of green space beyond the mutual boundary with Ashley Manor. Elsewhere, namely the eastern portion of the appeal site, which forms an important backdrop to Ashley Manor, there will be no severance between this entirely undeveloped part of the site and Ashley Manor.
- 8.54 The Historic England comments were made in advance of the adoption of the Cheltenham Plan in July 2020, but after the Examination Inspector's approval of the Main Modification of Policy HD4. Significantly, Historic England refers to only one of the development criteria, but conveniently ignores the criteria that sets out specific requirements designed to safeguard the settings of the two adjacent listed buildings and improvements to the ice house – the very criteria that have been followed in shaping the appeal scheme.
- 8.55 I recognise that the views expressed by Historic England, as the Government's adviser on heritage matters, should be given due regard as a material consideration in determining this appeal. However, it is the role of the decision-taker (in this case the Inspector) and not that of Historic England, to determine if harm is caused to the significance of heritage assets, harm, which should be given '*considerable importance and weight*', and to determine whether or not such harm is outweighed by public benefits.
- 8.56 For the reasons I have already outlined, I profoundly disagree with Historic England's conclusions that the appeal proposals represent an '*an unacceptable quantum and form of development*,' and do not meet the requirements of the NPPF, in particular paragraph numbers 193 and 194.

9.0 Conclusions

- 9.1 My evidence set out in the foregoing sections of this proof, together with my appendices, supports the case for the development of 43 dwellings on land off Oakhurst Rise, Charlton Kings.
- 9.2 In arriving at my conclusions, I have taken account of the relevant decision-making context in which the appeal must be determined, including the statutory development plan policy, national heritage policy contained in the relevant sections of the NPPF, and relevant guidance relating to the historic environment. It has also taken into account the design of the appeal proposal within its surrounding physical context, including the settings of the designated heritage assets referred to in the Council's Statement of Case, namely the grade II* listed Ashley Manor and the grade II listed Charlton Manor, and the former ice house. This has informed my conclusions with regard to the impact that the appeal proposals would have on the significance of '*nearby heritage assets*' as referred to in the Members' reason for refusal.
- 9.3 With regard to issues of heritage impact, as cited in the members' reason for refusal, I conclude as follows:
- I gauge the adverse heritage effects of the appeal proposals on the significance of the grade II* listed Ashley Manor, the grade II listed Charlton Manor and the former ice house, through impact on their settings, to be at the low end of less than substantial harm in the terms of the NPPF
 - I gauge the adverse heritage effects of the appeal proposals on the significance of the non-designated heritage asset, Glen Whittan, through impact on its setting, to be negligible
 - I consider that the appeal proposals are fully in accord with the specific heritage-related requirements of Policy HD4 of the recently adopted Cheltenham Plan
 - I consider the appeal proposals are not 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 195 of the NPPF

- 9.4 In conclusion, I recognise that, in making a decision on the planning balance, the Inspector must, in accordance with the provisions of s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, have special regard to the desirability of preserving the listed buildings and their settings. In accordance with relevant case law this means that '*considerable importance and weight*' must be given to the desirability of preserving listed buildings and their settings, in weighing the planning balance.
- 9.5 Having regard to Central Government policy set out at paragraph 196 of the NPPF, the less than substantial harm that I have identified to designated heritage assets should be weighed against the public benefits that would result from the proposals. In accordance with the requirements of paragraph 197 of the NPPF, the slight harm caused to the significance of Glen Whittan should be taken into account in determining the application and a balanced judgement made.