



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**

**Statement of Common Ground on heritage matters
between the Appellants and Cheltenham Borough
Council**

Planning Application Reference: 20/00683/OUT

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

February 2021

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1.0 Introduction

- 1.1 This document is a Statement of Common Ground (SoCG) between William Morrison (Cheltenham) Ltd and the Trustees of the Carmelite Charitable Trust (the Appellants), and Cheltenham Borough Council (the Council) in respect of heritage matters arising in connection with the appeal against the refusal of outline planning permission for 43 dwellings on land off Oakhurst Rise, Charlton Kings, Cheltenham, Gloucestershire ref. 20/00683/OUT.
- 1.2 It sets out the heritage matters that have been agreed between the Appellants and Cheltenham Borough Council, and those matters that are not agreed.
- 1.3 This document is supplementary to the main Statement of Common Ground between the Appellants and the Council, which describes the site, the application documents, relevant planning policy considerations and the reasons for refusal. The content of that document is not repeated here, although the heritage decision making context, in terms of relevant legislation policy and guidance is summarised below.

2.0 The heritage decision making context

- 2.1 The heritage decision making context includes relevant statutory duties as well as the relevant policies in the development plan and the national policy context relating to the historic environment. It also includes the relevant national guidance relating to heritage matters.

Statutory duties

- 2.2 Statutory duties relating to proposals affecting listed buildings and conservation areas are contained in the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2.3 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.
- 2.4 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

- 2.5 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 (adopted jointly by the three local authorities in December 2017). Also, of particular relevance are the policies in Cheltenham Plan (2011-2031) which forms part of Cheltenham's new Local Plan. The Cheltenham Plan was adopted July 2020.

- 2.6 Policy SD8 (Historic Environment) of the Joint Core Strategy is a strategic heritage policy that has been cited in the reason for refusal and is therefore relevant to this appeal. The policy states that development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment, and 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.
- 2.7 Cheltenham Plan Allocation Policy HD4: *Land Off Oakhurst Rise*, is of specific relevance to the current application. It defines a minimum of 25 dwellings on the land subject to masterplanning (in accordance with Policy SD4 of the JCS) which demonstrates that the development can be achieved whilst accommodating, amongst other matters:

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

‘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.

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

National heritage policy context

- 2.8 The policies in the National Planning Policy Framework (NPPF) 2019 are a material consideration in relation to this appeal. Section 16 of the NPPF contains policies that relate to the historic environment. The policies contained in paragraphs 189, 190, 193, 194 and 196 the NPPF are of particular relevance to the consideration of the appeal proposal at Oakhurst Rise, Charlton Kings.

Relevant guidance

- 2.9 Interpretation of the policies in the NPPF is provided by the on-line Planning Practice Guidance (PPG), most recently updated on the 23 July 2019. 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. GPA3

3.0 Matters agreed

- 3.1 The following matters are agreed between the Appellants and the Council.
- 3.2 The relevant designated heritage assets for the purposes of this appeal are:
- The grade II* listed administration block to St Edward's Preparatory School known as Ashley Manor, the grade II listed pair of drive piers and the grade II listed summerhouse of St Edwards School
 - The grade II listed Charlton Manor
- 3.3 Also of relevance to this appeal is the former ice house, which is historically associated with Ashley Manor and lies within the appeal site. Additionally, the property known as Glen Whittan, the boundary of which abuts the appeal site on its north side, may be regarded as a non-designated heritage asset.

Ashley Manor

- 3.4 The appeal site falls within the setting of Ashley Manor. Ashley Manor is a Regency villa built in two phases. Originally constructed as a small, plain stucco villa in 1832 for Alexander Ogilvy, and known as *The Woodlands*, the property was subsequently sold to the highly influential Cheltenham banker, Nathaniel Hartland in 1837. Hartland employed the prolific Cheltenham architect Charles Baker to extend the house to the south-west to create a grander Classical mansion. The remodelled mansion subsequently became known as *The Oaklands*. The building is now in use as the administration block to St Edward's School.
- 3.5 Baker's mansion was orientated to the south and west, with a projecting entrance portico to the west, and a grand limestone ashlar-faced principal (south) elevation, aligned to take in views across the formal gardens and designed landscape to the south towards Leckhampton Hill. Ashley Manor contains many original Regency features including ornate internal plasterwork.
- 3.6 Ashley Manor is significant in both architectural and historic terms. Architecturally it is particularly significant as a good example of a suburban Regency mansion, with a fine interior. It is historically significant due to its connection with Nathaniel Hartland, an important local figure. The particularly special architectural and historic significance of Ashley Manor is recognised in its status as a grade II* listed building.

- 3.7 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. These surroundings include the school land, which although debased by the addition of modern school buildings, contains surviving elements of the designed landscape, including the tree-lined carriage drive approach from the south, culminating in a roughly elliptical carriage sweep. The setting of Ashley Manor also includes the appeal site and, to some extent, the wider landscape beyond.
- 3.8 It is agreed that the appeal proposal will cause less than substantial harm to the significance of Ashley Manor through impact upon its setting.

Charlton Manor

- 3.9 The appeal site falls within the setting of 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 was developed by the speculator, Charles Andrews to the designs of Henry Dangerfield, the Borough Engineer for Cheltenham. Charlton Manor is designed in an eclectic Gothic Revival style.
- 3.10 The Battledown Estate was laid out in 1858 with Charlton Manor the first property to be built there in 1864. The Estate grew slowly into the late 20th century the area is typically characterised by large houses set back from the road on large plots. The rear boundaries of some properties on the Estate, including that of Charlton Manor, abut the proposal site.
- 3.11 The principal elevation of Charlton Manor faces south, and incorporates the main entrance porch as well as a number of large mullion-and-transom windows to the principal rooms of the house. This elevation was clearly designed to take advantage of views looking south across the sloping gardens towards Leckhampton Hill. The west elevation of Charlton Manor has a fenestration pattern that takes advantage of views looking west and south-west across the appeal site.
- 3.12 Charlton Manor is significant in both architectural and historic terms. Architecturally it is significant as a well-preserved example of a large mid-19th century Gothic Revival mansion designed by Henry Dangerfield. It is historically significant as the first of the large mansions to be built on the Battledown Estate. The special architectural significance of Charlton Manor is reflected in its status as a grade II listed building.

- 3.13 The setting of Charlton Manor contributes to its significance as a designated heritage asset. The setting includes the surroundings in which the heritage asset is experienced. These surroundings include 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. The setting of Charlton Manor also includes the appeal site and, to some extent, the wider landscape beyond.
- 3.14 It is agreed that the appeal proposal will cause less than substantial harm to the significance of Charlton Manor as a result of impact on its setting.

4.0 Matters not agreed

- 4.1 The following matters are not agreed between the Appellants and the Council.
- 4.2 The Appellants do not agree with the Council's assertion in its Statement of Case that the numbers and form of layout of the appeal proposals are inappropriate to the site.
- 4.3 The Appellants do not agree with the Council's assertion in its Statement of Case that the proposal does not have special regard to preserving the affected listed buildings as required by Section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 and the proposal would neither sustain nor enhance these heritage assets, as required by paragraphs 192 to 196 of the NPPF.
- 4.4 The Appellants do not agree with the Council's assertion in its Statement of Case that the form of development proposed cannot be considered to comply with the policies of the development plan (in particular Cheltenham Plan Policy HD 4 and Joint Core Strategy Policy SD8).

5.0 Signatures

Signed:



Name: PHILIP GROVER

Date: 15th February 2021

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

Signed:



Name: WILLIAM HOLBOROW

Date: 11th February 2021

For and on behalf of Cheltenham Borough Council