



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**

**Draft Statement of Common Ground between the
Appellants and Charlton Kings Friends (CKF)**

Planning Application Reference: 20/00683/OUT

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

23 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 Charlton Kings Friends (CKF) 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 CKF, and those matters that are not agreed.
- 1.3 This document is supplementary to the main Statement of Common Ground between the Appellants and CKF, 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, 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’

‘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.
- 2.10 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 CKF.
- 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.
- 3.4 The 2019 appeal Inspector considered, at paragraph 76 of his decision letter, that there was *'an historic and visual association between the application site and Ashley Manor and a strong visual interrelationship between the site and Charlton Manor'*. He considered that *'the appeal site, with the ice house it encompasses, contributes importantly to the historic and current visual setting to Ashley Manor and Charlton Manor as designated heritage assets'*.

Ashley Manor

- 3.5 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.
- 3.6 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.
- 3.7 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.

- 3.8 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 affected 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, including a grade II listed summerhouse from 1837 and a grade II listed pair of drive piers. The appeal site currently forms a parcel of undeveloped land between Ashley Manor and later development to the north.
- 3.9 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

- 3.10 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.
- 3.11 The principal elevation of Charlton Manor faces south, and incorporates the main entrance and windows looking towards Leckhampton Hill. The road entrance to the property is to the east. Some principal rooms have west facing windows. The 2019 appeal Inspector noted, at paragraph 75 of his decision letter, that the west elevation faces the appeal site and that *'The windows of the upper rooms especially afford open views across the appeal site, past the Ice House mound and as far as the mountains of South Wales'*. At paragraph 84 the Inspector made reference to Charlton Manor's *'important west-facing windows'*.
- 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, and still occupies a full Battledown estate 'lot'. Additional lots that used to provide further gardens were sold in the 1960s, prior to Charlton manor being listed in 1983. The footprint of Charlton Manor and its former coach house and stable block has remained substantially unchanged

since circa 1910. 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.
- 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 CKF.
- 4.2 The Appellants do not agree with CKF's assertion in its Statement of Case that the appeal proposals are *'highly damaging to the significance of the settings of Ashley Manor and Charlton Manor'*.
- 4.3 The Appellants do not agree with the assertion within the Heritage Statement prepared on behalf of CKF's that the level of harm caused to the significance of Ashley Manor falls towards the upper end of the scale of *'less than substantial harm'* in the terms of the NPPF. The Appellants consider that the harm caused to the significance of Ashley Manor as a result of impact on its setting would be at the low end of the scale of less than substantial harm.
- 4.4 The Appellants do not agree with the assertion within the Heritage Statement prepared on behalf of CKF that the level of harm caused to the significance of Charlton Manor falls towards the upper end of the scale of *'less than substantial harm'* in the terms of the NPPF. The Appellants consider that the harm caused to the significance of Charlton Manor as a result of impact on its setting would be at the low end of the scale of less than substantial harm.
- 4.5 The Appellants do not agree with CKF that further harm would be caused to the significance of heritage assets, through impact on their settings, as a result of changes to property boundaries. Such changes are not included as part of the appeal proposals.
- 4.6 The Appellants do not agree with CKF that further harm would be caused to the significance of the grade II listed Charlton Manor, through impact on its setting, as a result of the installation of an artificial badger sett.
- 4.7 The Appellants do not agree with CKF that the appeal proposals fail to deliver on the heritage-related constraints specified in Policy HD4 of the Cheltenham Plan.
- 4.8 The Appellants do not agree with the assertion within the Heritage Statement prepared on behalf of CKF that the appeal proposals fail to meet the statutory test set by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and run contrary to adopted policy SD8 of the Council's Joint Core Strategy (2017).

5.0 Signatures

Signed:



Name: PHILIP GROVER

Date: 23 February 2021

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

Signed:



Name: SALLY WALKER

Date: 23 Feb 2021

For and on behalf of Charlton Kings Friends (CKF)