



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**

**Summary 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

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 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.

Scope and nature of evidence

- 2.2 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.
- 2.3 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. As such, my evidence forms part of the Appellant's case in respect of this appeal. The other aspects referred to in the Council's reason for refusal, specifically the planning procedural aspects of the case and planning policy considerations, are dealt with by Peter Frampton. This proof of evidence should therefore be read in conjunction with the proof of evidence of Peter Frampton.
- 2.4 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.
- 2.5 My evidence is informed by an understanding of heritage-related planning law and policy, relevant published guidance, professional experience, and on-site assessment.

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.
- 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 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) (**CD D3**). Also, of particular relevance are the policies in Cheltenham Plan (2011-2031) which form part of Cheltenham's new Local Plan and was adopted in July 2020 (**CD D4**).
- 3.4 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**). Of particular relevance to my evidence are policies relating to the conservation and enhancement of the historic environment contained in section 16 of the NPPF. The policies in the NPPF are a material consideration in planning decisions. I summarise the key policies in my main proof of evidence.
- 3.5 In my main proof of evidence, I summarise relevant Central Government guidance on historic environment matters set out in the NPPG. I also summarise other relevant guidance, namely Good Practice Advice in Planning Note 2 (GPA2) *Managing Significance in Decision-Taking in the Historic Environment* (March 2015) (**CD H16**) and Historic Environment Good Practice Advice in Planning Note 3 (GPA3): *The Setting of Heritage Assets* (December 2017) (**CD H17**).
- 3.6 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 Estate, and to the south is the St Edward's Preparatory School. Despite significant suburban development within Charlton Kings, the application site has remained undeveloped over time.
- 4.2 Historically, the land was within the ownership of Ashley Manor, a grade II* listed building that currently forms the administration block for St Edward's School to the south. I discuss the significance, setting and spatial relationship of the two listed buildings and the ice house in my main proof of evidence.
- 4.3 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 is set out in detail in my main proof of evidence. It 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).
- 5.2 In summary, it can clearly be seen from the chronological information I have set out in my main proof of evidence, 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 In relation to built heritage matters, the appeal scheme seeks to address the issues raised by the Council's Senior Conservation Officer and the Inspector at the Public Inquiry in September 2019, namely concerns regarding the settings of the grade II* Ashley Manor, the grade II listed Charlton Manor and the former ice house. In order to protect the settings of these two listed buildings the 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 development. This 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. The appeal proposals will ensure that intervisibility between the two listed buildings and the ice house remains unobstructed.
- 6.3 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. 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.
- 6.4 The appeal proposals will incorporate a high level of tree screening, including retained groups of mature trees around the periphery and within the site. 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. 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.

- 6.5 In accordance with the requirement of Policy HD4 of the Cheltenham Plan, enhancement of the former ice house is proposed. Specifically, it is proposed to undertake 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.

7.0 Heritage assets, setting and significance

- 7.1 In my main proof of evidence, I explain the heritage significance of the two statutorily listed buildings, the grade II* Ashley Manor and the grade II listed Charlton Manor, including the contribution to significance made by their settings. I also describe the significance and setting of the former ice house associated with Ashley Manor. Likewise, I describe the significance and setting of the non-designated heritage asset known as Glen Whittan, which lies to the north of the appeal site.

Ashley Manor – description and significance

- 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. Ashley Manor is significant in both architectural and historical terms. Architecturally the building is particularly significant as 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. 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.
- 7.3 The setting of Ashley Manor contributes to its significance as a designated heritage asset. The setting includes the school land immediately surrounding the building, and the remnants of the designed parkland to the south, 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 the circular carriage sweep.
- 7.4 The setting of Ashley Manor also includes the appeal site to the north, and the wider landscape, particularly the elevated land of the Cotswold escarpment to the south. 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. I consider that the application site contributes modestly to the wider setting and significance of Ashley Manor, through its historical and functional association, and its visual connection. In my view it is the eastern portion of the appeal site, encompassing the former ice house, that is the most important to the setting of Ashley Manor.

Charlton Manor – description and significance

- 7.5 Immediately adjacent to the appeal site towards its north-east corner is the grade II listed Charlton Manor. 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, 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.
- 7.6 The setting of Charlton Manor includes, first and foremost, the immediate garden land on the southern and western side of the house. The setting of Charlton Manor also includes the appeal site and the wider landscape beyond. 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.
- 7.7 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

- 7.8 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 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.
- 7.9 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 with which it has a fortuitous visual relationship. 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

- 7.10 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. 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.
- 7.11 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.

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

- 8.1 In my main proof of evidence, 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)**. I also address the various matters raised by the Rule 6 party, CK Friends, as set out in their Statement of Case **(CD C7)**, and the accompanying Heritage Statement prepared on their behalf **(CD H22)**. Additionally, I address matters raised in Historic England's letter of objection at application stage **(CD H21)**.
- 8.2 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.
- 8.3 I strongly disagree with the assertion made by Dr Doggett on behalf of CK Friends that the appeal proposals would '*cause considerable and irreversible harm to the settings of the grade II* listed Ashely Manor, the grade II listed Charlton Manor and the curtilage listed ice house*', or his conclusion that the harm caused would be '*towards the upper end of the scale of less than substantial harm*' in the terms of the NPPF. I consider that the harm caused to these heritage assets would be at the low end of the scale of less than substantial harm.
- 8.4 I disagree with a number of assertions made by Historic England, in their consultation response to the appeal proposals at application stage, dated 12 May 2020, and in particular their conclusion 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 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.

9.2 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

9.3 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.

- 9.4 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.