

From: Simon Firkins [<mailto:simon@sfplanning.co.uk>]
Sent: 12 July 2018 17:14
To: Michelle Payne
Subject: Rebuttals of heritage comments by Dr Doggett
Importance: High

Dear Michelle

Further to the submission of the Heritage Comments by Dr Doggett on behalf of the residents of Charlton Manor, please find attached responses to those comments from CgMS and Architectural History & Conservation.

I apologise for not being able to get these to you sooner – they have been prepared as swiftly as possible in the circumstances and having given full consideration to the points raised. As you can imagine, the authors of the attached were keen to provide a true assessment of the situation with regard to heritage matters as they see it, and to correct certain rather sweeping and unsubstantiated comments by Dr Doggett. In these respects (the specific points related to heritage considerations) I trust the attached are self-explanatory and assist in clarifying the relevant tests and terminology that should be used in these cases and the level of harm that may arise from the proposed development.

This is agreed by all others to be less than substantial (albeit there is some disagreement on the degree of that less than substantial harm) and thus the next stage is to weigh this up against the public benefits, as you have done in the report to committee. I see that Dr Doggett has also made a passing comment about public benefits and that these do not outweigh the harm in his view. With respect to Dr Doggett in his role as a heritage consultant, this is not really his test to apply, being as he is approaching things from a heritage perspective.

From my point of view I feel I should point out that Dr Doggett's report is no more 'independent' than those written by others, as he suggests. He has been employed by those with strong objections to the proposal and thus is not independent. Certainly the various reports by ECUS I consider to be more independent as they having nothing to gain or lose if the site is developed or not, and their view is quite clear – they say the west parcel can be developed without harm to heritage assets and whilst the east side of the site is more sensitive in this regard it can continue to be developed providing appropriate care is given to the layout to ensure any harm is minimised and mitigated – just as we feel we have done through the layout as now proposed.

I hope the attached assist in any further consideration of this specific matter.

With best regards

Simon

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5th July 2018

Dear Ms Crews,

Land off Oakhurst Rise, Cheltenham – Application Ref. 17/00710/OUT

CgMs are acting for William Morrison (Cheltenham) Ltd and have been engaged to provide professional expertise in relation to built heritage matters at the above site since 2016.

Please accept this letter as a rebuttal to the representation of Dr Nicholas Doggett of Asset Heritage Consulting dated 20th June 2018, which primarily relates to alleged harm to Charlton Manor, a grade II listed building. It should be noted that Dr Doggett represents the owners of Charlton Manor and therefore his representation cannot be considered to wholly represent the '*independent professional analysis*' that is claimed in his letter.

Whilst Charlton Manor is clearly Dr Doggett's primary focus, his representation also contains passing reference, amongst other matters, to Historic England's comments regarding potential for impact to the grade II* South-West Regency Block to St Edward's Middle School. Both CgMs and AHC have already provided rebuttals following Historic England's comments.

Many of the issues raised by Dr Doggett concerning Charlton Manor are discussed at considerable length in the CgMs Built Heritage Statement (revised April 2018) submitted as part of the application, and consequently are not repeated here. Dr Doggett describes the conclusions of both the CgMs Built Heritage Statement and the Heritage Statement produced by AHC (dated November 2017) as '*flawed and inaccurate*'; yet his own representation fails to assess in detail the contribution made by setting, including the Site, to the significance of the heritage asset, as recommended by Step 2 of Historic England's settings guidance (*GPA3: The Setting of Heritage Assets, 2017*).

The Built Heritage Statement produced by CgMs fully assesses the potential for impact on the significance of Grade II listed Charlton Manor, in accordance with the 'five-step' process set out by guidance in *GPA3*. Having followed this process,

the CgMs report concludes that the harm to Charlton Manor arising from development of the site as currently proposed will be less than substantial in magnitude, and specifically moderate in degree, thus engaging Paragraph 134 of the NPPF. By contrast, Dr Doggett's representation variously and inconsistently refers to '*clearly adverse impact...on the setting of Charlton Manor*' and '*severe harm caused to the setting*'; however it must be emphasised that setting is not a heritage asset. Dr Doggett's representation then goes on to refer to a '*highly adverse impact...on that significance*', without clearly assessing how this harm is actually sustained or accurately quantifying the degree of harm. Furthermore, many of the points raised by Dr Doggett relate to matters of amenity, rather than the potential for impact on the heritage significance of the listed building.

As outlined in the CgMs Built Heritage Statement, it is acknowledged that Charlton Manor will sustain a moderate degree of harm as a consequence of loss of views to only the rear of the building, which currently provide a degree of rural context; but it should be emphasised that these views are not a key contributor to the significance of the listed building. Furthermore, as also stated in the Built Heritage Statement (and seemingly also acknowledged in Dr Doggett's representation), any contribution made by these views is diluted by the lack of any known functional relationship between the listed building and the site.

Finally, it should be stressed that Dr Doggett fails to give sufficient consideration to the potential to mitigate the harm identified, as recommended by Step 4 of GPA3. As again outlined in the Built Heritage Statement, the proposals specifically include mitigation measures in order to reduce any potentially harmful impacts to Charlton Manor (and indeed any other surrounding built heritage assets). Dr Doggett appears to dismiss as inappropriate what are carefully-designed and contextually-sensitive measures, which include augmentation of existing landscaped planting. GPA3 specifically acknowledges that '*screening may have a part to play in reducing harm*'. Contrary to Dr Doggett's assertion that the scheme also delivers no heritage benefits, as emphasised in the Built Heritage Statement, the proposals seek to provide a spatial linkage between the listed Regency Block and the icehouse, which can be considered a heritage benefit.

It remains our view that the potential harm to the significance of grade II listed Charlton Manor will remain less than substantial, specifically moderate in degree, thus engaging Paragraph 134 of the NPPF which requires this harm to be weighed against the public benefits of the proposals. The public benefits arising from the development are discussed at length in the planning statement accompanying the application, which provides clear and convincing justification for the identified harm.

Consequently, in regard to built heritage considerations, the planning application should be approved.

Yours sincerely,

Jessica Jones BA (Hons) MA MRICS IHBC
Associate Director, Historic Environment

Tracey Crews
Director of Planning
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Date: 09/07/2018

Dear Ms Crews

Re: REF: 17/00710/OUT Outline application for residential development of 91 dwellings including access, layout and scale, with all other matters reserved for future considerations on land off Oakhurst Rise, Cheltenham (as revised April 2018)

I am writing to you to respond to a letter you have recently received, commissioned by the owners of Charlton Manor, Ashley Road, Cheltenham. This letter was produced by Asset Heritage Consulting and regards the outline application REF: 17/00710/OUT.

This letter states that the proposed outline application would cause '*severe*' harm to the setting of the Grade II listed Charlton Manor on Ashley Road, located to the north-east of the proposed site (page 5). We consider this to be not only incorrect in heritage terms but a very misleading statement. It should be noted that Asset Heritage Consulting has not used the understood and accepted terminology, as set out in the NPPF, which is normally used in assessing the impact of a development on a heritage asset.

As set out in the NPPF, harm to a heritage asset is categorised as either '*substantial*' or '*less than substantial*'. Asset Heritage Consulting's statement that there would be '*severe*' harm, although strong and suggestive of harm, does not actually state that they consider that there would be '*substantial harm*' caused to the heritage asset of Charlton Manor by this development.

Architectural History & Conservation

This is perhaps because they have drawn the same conclusion as other the other three heritage consultants involved, (Ecus Ltd, myself and Professor Mowl [Architectural History and Conservation Consulting], as well as CgMs) that any harm to the heritage asset here, that would be caused by this development, could only ever be '*less than substantial*' – the terminology used by the NPPF.

High Court caselaw has provided clarity on the matter of the level of harm and how this is to be understood and this is extremely pertinent to this case. In the case of Bedford Borough Council, the judgment held that '*for harm to be substantial, the impact on significance was required to be serious, such that **very much, if not all**, of the significance [of the asset] was drained away*'. In respect of indirect harm, which would include harm to setting, the term was held to relate to '*an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced*'. Clearly this would not be the case with this application site or the effect that its development may have on Charlton Manor.

Since the development proposed for the application site (new houses) would not directly touch, alter, affect or cause loss in any way to or of the fabric of the listed building itself, or any of its curtilage buildings, or its domestic curtilage, nor would it cause the asset's significance to be '*vitiated altogether or very much reduced*', the highest level of harm here that could exist (if such harm was deemed to exist at all) could only ever be '*less than substantial*'. Clearly, therefore, any harm would not and could not be deemed to be '*severe*' and this statement is simply misleading.

Whilst harm of any level to a heritage asset, even '*less than substantial*' harm is not desirable and must be justified. '*Less than substantial*' harm must nevertheless be weighed and balanced against the public benefit that could result from a proposal; in this case the provision of new housing to serve the residents of Cheltenham. Asset Heritage Consulting shies away from the guidance set out in the NPPF, palpably overstating the case, failing to set out the correct level of harm that could occur here, and failing to carry out the balancing exercise that needs to happen to assess the level of public benefit that could accrue from such a development, which the NPPF is clear should be done at such a juncture (para 134).

It should be noted that Architectural History and Conservation consulting (AHC) were not commissioned to assess the impact on the setting of Charlton Manor that may occur from the proposed development of Land at Oakhurst Rise but were asked to simply consider the impacts upon the more sensitive, Grade II* St Edward's School building.

Architectural History & Conservation

However, even a simple, desk-based assessment of the impact of the development upon Charlton Manor immediately raises the following important points that should be weighed against the significant public benefits of the supply of new housing in this location:

- 1) Charlton Manor is not and never was functionally connected with the land the subject of this application. Whilst this land does form part of its' wider setting, it is not specifically designed as a backdrop to the building;
- 2) Charlton Manor was indeed the first building to be constructed on this estate but was never intended to be isolated within a rural context. The wider estate at Ashley Road was an area of villa development in the nineteenth century and it would have been clear to the original owners and builders that the estate was going to be further built up and land around it infilled. Today the house, originally a Lodge (Simla Lodge) and not a Manor in the true sense of the word, is surrounded on three sides, north, south and east by other houses, built near to it, soon after it was constructed.
- 3) Up until relatively recently the western boundary of Charlton Manor was defined by a tall, thick hedge, which visually separated it from the land the subject of this application, making the listed building both insular and secluded (see Plate 1). This protective hedge, a length of which still remains which demonstrates the appearance and size of the whole hedge as it once was, was largely removed by the current owners. This was replaced by a brick wall (see Plate 2). Planning permission was never sought for the building of this wall and it remains an unauthorised development, built without consent in the curtilage of the listed building.



Plate 1 showing the thick boundary hedge which was recently removed by the owners and replaced with an unauthorised wall.



Plate 2 showing the new, unauthorised, wall now bounding the site to the west.

 Architectural History & Conservation

Notwithstanding the above, it is considered that the applicants have sensitively laid out the proposed development to leave large rear gardens facing onto Charlton Manor in order to preserve a spacious buffer area for the listed building. This careful design, coupled with the fact that the actual fabric of the listed building would be untouched and its overall significance only slightly impaired by change to its setting, means that any harm deemed to come from this application would be '*less than substantial*' and therefore must be balanced against the significant public benefit and need for further housing in Cheltenham.

With regard to the Grade II* St Edward's School itself, detailed and careful research, carried out by Professor Mowl and I, has proved that the School, a Regency Villa named 'The Oaklands', was specifically designed to face *away* from the land to the north such that there would be very limited impact upon its setting and original design intention caused by this application. This has been set out in the Heritage Statement and subsequent letters.

Yours faithfully

Dr Carole Fry and Professor Tim Mowl