

P24-0624

12<sup>th</sup> March 2024

Planning Policy  
Cheltenham Borough Council  
Municipal Offices  
Promenade  
Cheltenham  
GL50 9SA

Dear Sir/Madam,

**Representations to the Regulation 16 Consultation on the Draft Leckhampton with Warden Hill Neighbourhood Plan in respect of Land East of Kidnappers Lane, Cheltenham**

**Context**

Pegasus Group are instructed to provide representations to the Leckhampton with Warden Hill Neighbourhood Plan (NP) Regulation 16 public consultation.

Our client has various land interests within the NP area, including Land East of Kidnappers Lane, Cheltenham. The Site is shown at **Appendix 1**.

**Conformity with the Development Plan**

A Neighbourhood Plan should support the delivery of strategic policies set out in the local plan.

NPPF paragraph 13 states:

***"Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies."***

Paragraph 29 and Footnote 16 of the NPPF state:

***"Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory Development Plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies."<sup>16</sup>***

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It is noted that the purpose of the NP is to set out a series of planning policies that will be used to determine planning applications within the neighbourhood area in the period to 2031. The final year of the proposed plan period is consistent with the adopted Cheltenham Plan and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy.

A Neighbourhood Plan should contain policies for the development and use of land as if successful at examination and referendum, the Neighbourhood Plan becomes part of the statutory Development Plan. Any wider community aspirations than those relating to the development and use of land need to be clearly identifiable or should be made in a separate document.

The Neighbourhood Plan needs to be prepared positively, in a way that is aspirational and deliverable. The Neighbourhood Plan must satisfy the basic conditions as set out in the National Planning Practice Guidance (PPG) on Neighbourhood Planning (O65 Reference ID:41-O65-20140306).

It is necessary for a Neighbourhood Plan to meet the 'Basic Conditions' in order to progress through an Examination and progress to a community referendum. This matter is re-iterated at paragraph 37 of the National Planning Policy Framework (NPPF) and again through the PPG.

Paragraph 37 of the NPPF states:

***“Neighbourhood plans must meet certain ‘basic conditions’ and other legal requirements before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.”***

One of the seven 'Basic Conditions' set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 is that the Neighbourhood Plan should be prepared in 'General Conformity' with the strategic policies in the adopted Local Plan for the area in which they are located. Paragraph 65 of the PPG<sup>1</sup> states:

***“The basic conditions are:***

***...***

***e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the Development Plan for the area of the authority (or any part of that area).”***

Therefore, it will be necessary for it to be prepared in general conformity with the adopted Development Plan. The critical documents from the adopted Development Plan are the Cheltenham Plan and the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS).

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<sup>1</sup> Paragraph: O65 Reference ID: 41-O65-20140306 Revision date: 06 03 2014

It should be noted that the Cheltenham, Gloucester and Tewkesbury authorities are together preparing a new Strategic Local Plan (SLP), which is anticipated to be submitted to the Planning Inspectorate for examination in early 2026. It is therefore entirely possible that the adopted JCS could be superseded by the SLP within only a couple of years of the NP being 'made', if the NP were to be successful at examination and referendum (for reasons stated below, we consider that as currently drafted the NP would not be successful). This poses a risk that only a few years into its lifespan, the NP could find itself in a position where it is no longer in conformity with the strategic policies of the Development Plan. In this scenario, the NP would likely be attributed significantly less weight in decision making processes and therefore becomes a less effective policy vessel for the local community than it is presently hoped to be.

This is confirmed by the PPG<sup>2</sup>:

***"There is no requirement to review or update a neighbourhood plan. However, policies in a neighbourhood plan may become out of date, for example if they conflict with policies in a local plan covering the neighbourhood area that is adopted after the making of the neighbourhood plan. In such cases, the more recent plan policy takes precedence. In addition, where a policy has been in force for a period of time, other material considerations may be given greater weight in planning decisions as the evidence base for the plan policy becomes less robust. To reduce the likelihood of a neighbourhood plan becoming out of date once a new local plan (or spatial development strategy) is adopted, communities preparing a neighbourhood plan should take account of latest and up-to-date evidence of housing need, as set out in guidance on preparing a neighbourhood plan or Order."***

The NP does not allocate any sites for development, as confirmed at paragraph 14. With reference to the risk noted above, this is considered likely to render the NP out of date once the SLP is adopted, given that paragraph 67 of the NPPF states the following (inter alia):

***"Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations."*** [our emphasis added]

Once the SLP is adopted, a housing requirement figure for the NP area will be enshrined in the adopted Development Plan. The lack of any housing allocations, and indeed the proposals to implement greater policy constraints on potentially suitable allocation sites (as detailed below)

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<sup>2</sup> Paragraph: 084 Reference ID: 41-084-20190509

could render the NP an obstacle to the achievement of the SLP's ambitions, rather than a complementary non-strategic plan as should be the case.

It is therefore recommended that the progression of the NP is halted until the strategic policy direction of the SLP becomes clearer, through subsequent rounds of consultation. A consultation on an Issues and Options document is running concurrently with the Regulation 16 consultation on the NP, but the SLP consultation does not provide draft policies, nor propose allocations to meet the development needs of the region. It is further recommended that the NP is revised to include sufficient development allocations to meet the needs of the NP area.

### **Policy LWH1**

This policy seeks to ensure that existing community facilities and grocery stores within the NP area are protected from changes of use and encouraged to expand where appropriate. These objectives are supported.

However, the policy also proposes the following restriction on new residential development:

***"New residential development within the Neighbourhood Area on sites larger than 1 hectare should not normally be permitted unless suitable local grocery shop provision exists or will be provided within 800 metres of the whole of the development."***

The effect of this policy would be to significantly limit the number of residential development sites which could come forward. Whilst it is sensible to seek to prevent the loss of existing facilities which serve the local community, the proposal to effectively mandate the provision of new grocery facilities to accompany residential developments on sites which may emerge within the NP area is far too restrictive. No evidence has been provided as part of the NP (either within the draft plan, or its evidence base) to form a robust basis for the requirement.

Sites which may otherwise be entirely suitable for residential development would effectively be required to provide a grocery store element within their scheme, in order to comply with the policy requirement. This is likely to have the effect of neutering the viability of such schemes and without robust evidence to justify the need for this policy, would hinder the central aim of the planning system – the achievement of sustainable development.

If in place earlier, this policy would likely have prevented permission being granted for a development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure on allocation site MD4, which formed part of the adopted Cheltenham Plan. This site is larger than 1ha and the entirety of the site is not within 800m of a grocery store. Permission was granted by the Secretary of State on a recovered appeal (APP/B1605/W/22/3309156) on 27<sup>th</sup> February 2024. This scheme came forward without grocery store provision.

This element of Policy WLH1 therefore runs contrary to the Basic Condition (d), which requires that Neighbourhood Plans (or Orders) contribute to the achievement of sustainable development.

As the policy would conflict with the adopted Development Plan, it fails to meet Basic Condition (d), so should therefore be revised to remove the restrictive requirement relating to distance from existing grocery stores.

#### **Policy LWH4**

This policy states:

***"The roles and functions of existing green infrastructure identified in Figure 12 and Appendix 2 should be positively considered in new proposals for development. Where feasible, new development should contribute through onsite provision to the maintenance and enhancement of local green infrastructure roles and functions."***

***Future objectives for the maintenance and improvement of Leckhampton with Warden Hill Neighbourhood Plan Area green infrastructure should also be supported through developer contributions where appropriate."***

Area 13 as shown at Appendix 2 to the NP relates to Land East of Kidnappers Lane. Whilst the policy wording clearly supports development of sites affected by the policy designation (which is welcomed and encouraged), the policy does not appear to serve a useful purpose given the existence of INF3 within the JCS and G12 – G13 within the Cheltenham Plan. JCS Policy INF3, in particular, has more in-depth requirements for development proposals which are not expanded upon by LWH4.

JCS Policy INF3 states:

***"1. The green infrastructure network of local and strategic importance will be conserved and enhanced, in order to deliver a series of multifunctional, linked green corridors across the JCS area by:***

- i. Improving the quantity and / or quality of assets;***
- ii. Improving linkages between assets in a manner appropriate to the scale of development, and***
- iii. Designing improvements in a way that supports the cohesive management of green infrastructure;***

***2. Development proposals should consider and contribute positively towards green infrastructure, including the wider landscape context and strategic corridors between major assets and populations. Where new residential development will create, or add to, a need for publicly accessible green space or outdoor space for sports and recreation, this will be fully met in accordance with Policy INF4. Development at Strategic Allocations will be required to deliver connectivity through the site, linking urban areas with the wider rural hinterland***

***3. Existing green infrastructure will be protected in a manner that reflects its contribution to ecosystem services (including biodiversity, landscape / townscape quality, the historic environment, public access, recreation and play) and the connectivity of the green infrastructure network. Development proposals that will have an impact on woodlands, hedges and trees will need to include a justification for why this impact cannot be avoided and should incorporate measures acceptable to the Local Planning Authority to mitigate the loss. Mitigation should be provided on-site or, where this is not possible, in the immediate environs of the site***

***4. Where assets are created, retained or replaced within a scheme, they should be properly integrated into the design and contribute to local character and distinctiveness. Proposals should also make provisions for future maintenance of green infrastructure.***

***This policy contributes towards achieving Objectives 4, 6, 7 and 9."***

All issues covered by the NP Policy LWH4 are addressed within the adopted INF3 and as such, the proposed policy serves no useful purpose. In order to avoid the risk of convoluting and overcomplicating the decision-making process, it is recommended that the policy is removed from the NP.

Given that the proposed policy would simply duplicate adopted policy and guidance of the LPA, it is considered unnecessary for it to be included within the NP.

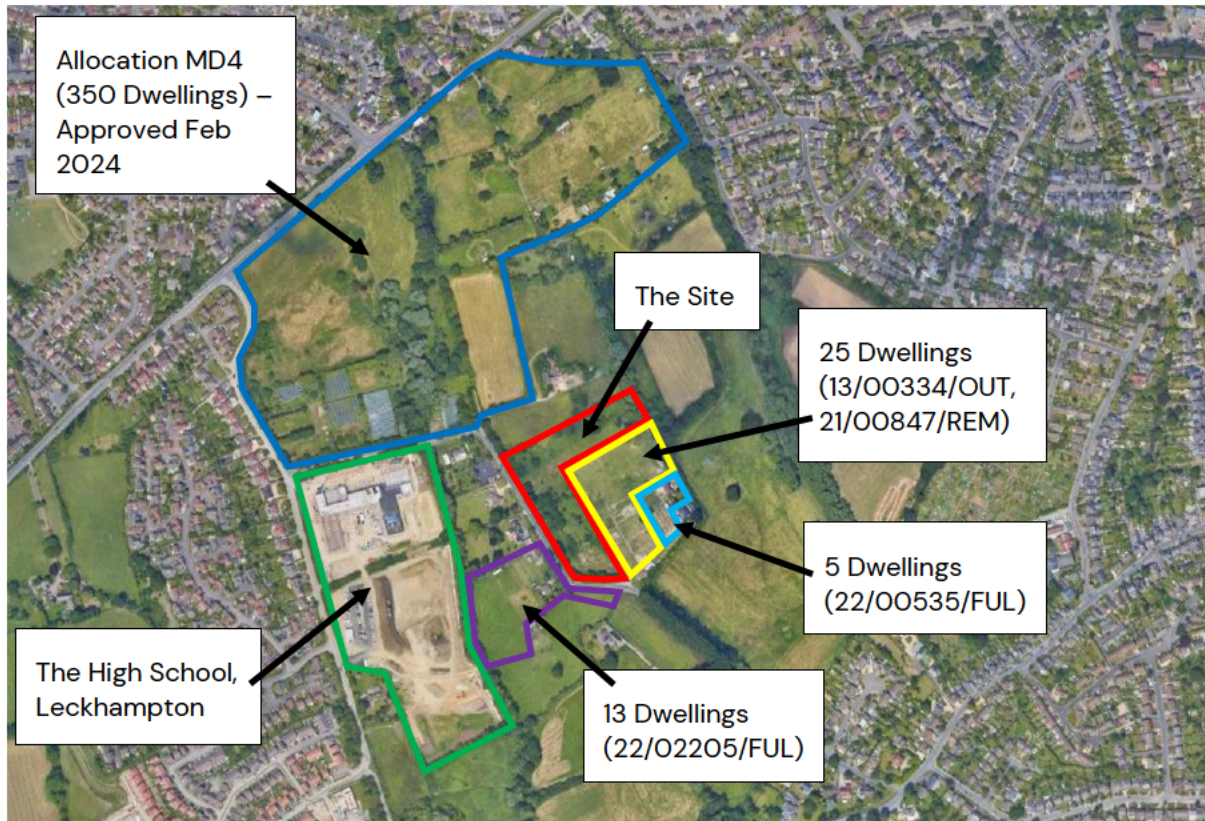
### **Site Specific Representations**

Although the NP as currently drafted does not propose any allocations, for the reasons given above, the allocation of housing sites within the NP area is considered essential. The NP should be revised to include a sufficient quantum of allocated sites to meet the needs of the NP area over the plan period.

### **Site Description**

The Site lies on the northeastern side of Kidnappers Lane, within the Leckhampton area of Cheltenham. Positioned approximately 2km to the southwest of the town centre, the Site lies adjacent to several developed plots, including long-established residential properties on the western side of Kidnappers Lane, Robinswood and Robinswood Cottage to the north, and more recent development sites adjacent to the southeast (13/00334/OUT, 21/00847/REM & 22/00535/FUL) and immediately opposite the Site on the western side of Kidnappers Lane (22/02205/FUL).



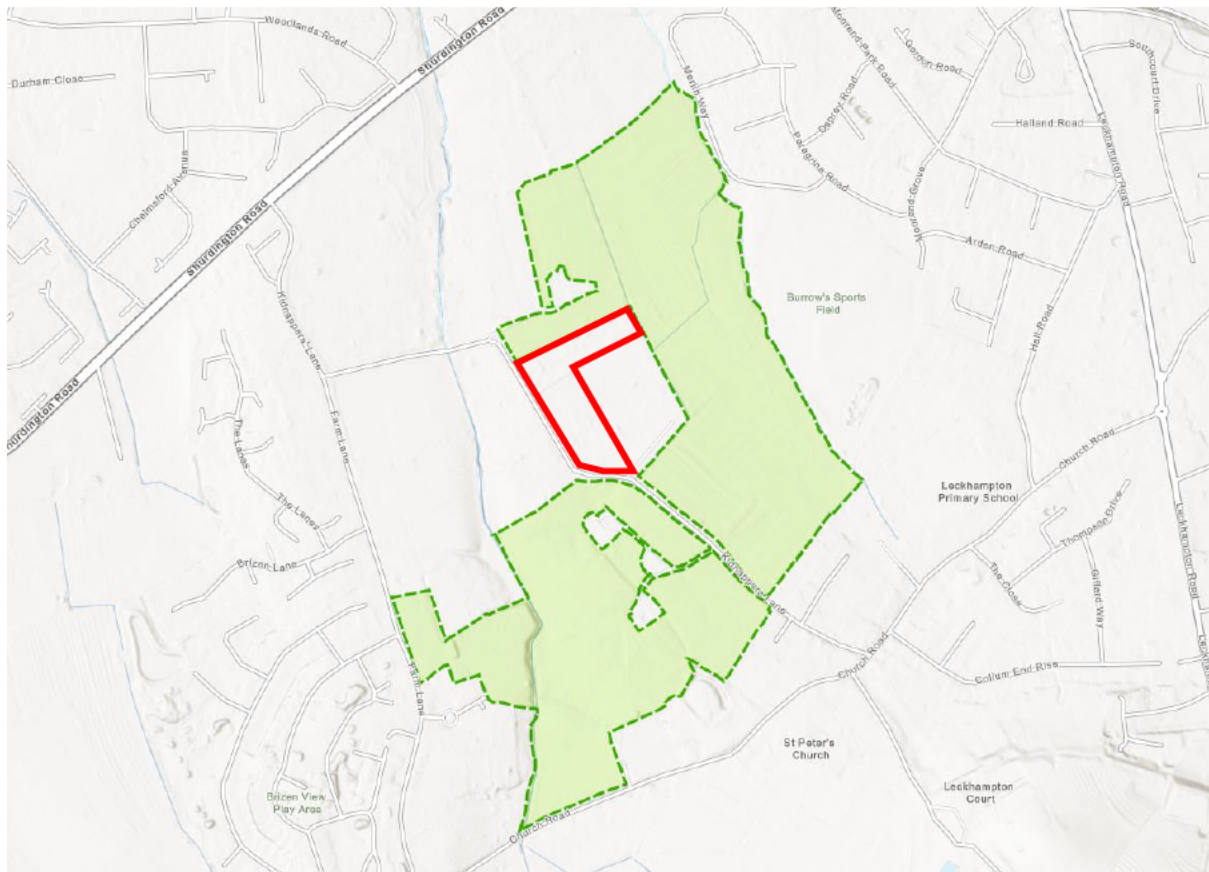


The land comprises overgrown, low-quality scrubland, formerly used in part for horticultural purposes (plant nursery) along with paddock and field laid to grass. Importantly it is one of the few areas that are not designated as Local Green Space in the Local Plan.

The Site also lies in relatively close proximity to the Miller Homes allocation site MD4, on which permission for 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure was granted by the Secretary of State following a recovered appeal in February 2024.

### Constraints to Development

Although the Site does not lie within an area subject to a restrictive planning policy designation (e.g. Green Belt or Local Green Space), the land is not within the Principal Urban Area (PUA), as currently defined for the purposes of the JCS. Under the current Development Plan, this is the primary constraint to development on the Site, as JCS policy SD10 restricts the development of market housing in Cheltenham Borough outside of the PUA. The emerging SLP therefore represents an opportunity to remedy this as the PUA's boundaries will need to be reconsidered and representations to this effect have been submitted to the regional LPAs in parallel with these representations to the NP.



**Figure 1 – Extent of the LGS Designation in the Leckhampton Area**

The boundary to the Cotswolds AONB is located to the south of Church Road, which itself lies to the south of the Site. It is possible to experience views from the AONB towards the Site, from the hills approximately 1.5km to the southeast around the Devil's Chimney. However, it must be noted that any views from this setting would be in the context of a view across the generally built-up landscape of Cheltenham and its surrounds.

There are no features of historic interest on the Site, or in the local vicinity. There are a scattering of heritage assets located to the south of the Site, including the Grade II\* listed Church of St Peter, but none of these likely to be adversely impacted by a sensitively designed development given the level of separation involved.

The Site lies entirely within Flood Zone 1, and the Government's online mapping also shows that the Site is at a very low risk (<0.1% chance) of experiencing flooding from surface water each year. As such, flooding and drainage considerations are likely to be sufficiently dealt with at the application stage.



The Site has not had a previous use which is likely to have resulted in contamination of the land and there are no known or anticipated geotechnical constraints.

#### Benefits of the Development

A housing scheme on the Site would have the potential to make a meaningful contribution to the supply of housing in the NP area, with a significant proportion of affordable housing (40%). These are substantial benefits which clearly align with the Government's stated intention of significantly boosting the supply of housing (see Paragraph 60 of the NPPF).

The NPPF at paragraph 70 is also supportive of a range of sites and refers to the importance of small and medium size sites which can typically deliver more quickly than strategic sites.

Such a development would deliver economic benefits during both the construction and operational phases of the scheme. A housing scheme would result in both direct and indirect employment associated with the construction process, as well as the associated output to the local economy. Once construction work ceases and the scheme moves into the operational phase, households within the development will themselves contribute to the local economy and provide additional Council Tax revenue. These economic benefits align with JCS Policy SP2(1), which seeks to focus development at Gloucester and Cheltenham to support their economic roles as the principal providers of jobs, services and housing within the JCS area.

The provision of new housing is also a social benefit which supports the growth of the local community and will ensure continued support for existing services and facilities.

Being sustainably located, with good access to Cheltenham's centre and the many public transport links to the surrounding region, the development would also result in less pressure on the highway network than development away from the region's urban centres. Occupiers of the development would be able to access local services and facilities without the need to rely on private transport and indeed, the use of public transport would likely be greater than would be expected in more rural locations. The site benefits from proximity to The High School, Warden Hill Primary School and Leckhampton C of E Primary School, all within walking distance. There are a number of local shops along Leckhampton Road to the east and Salisbury Avenue to the northwest. Morrisons superstore is located further to the west off Caernarvon Road. The Greatfield and The Wheatsheaf pubs are located to the west and east of the site, respectively. The Site also benefits from excellent connections into the centre of Cheltenham via public transport or private vehicle, which offers a multitude of employment opportunities.

The Site therefore represents an exciting opportunity to deliver a sustainable development, which accords with the central aim of the planning system.

#### Deliverability

Paragraph 69 of the NPPF requires that planning policies identify a supply of specific, deliverable sites for five years after adoption and specific, developable sites or broad locations for growth for the subsequent years.



Deliverability and developability are defined further at Annex 2 of the NPPF. In order to be 'deliverable', residential development sites should be available now, offer a suitable location for development immediately and have a realistic prospect that housing will be delivered within five years.

To be considered 'developable', a site should be in a suitable location for housing with a reasonable prospect they will be available and could be developed at the point envisaged. At the very least, the Site is considered to be developable.

The LPA has a duty to deliver at least 10% of housing on sites of 1h or less in its emerging plan. Although this site, in total, is in excess of this, it is very much at the lower/smaller end of sites that will be put forward and considered. There is emphasis on enabling sites by SME's given the certainty of delivery and higher quality nature of the homes they provide, and this should be considered in the context of site selection.

### Conclusion

The Site offers a clear opportunity to locate new homes in a sustainable location within Cheltenham, without encroaching upon any existing policy designations (e.g. Green Belt or Local Green Space) or presenting any show-stopping technical constraints. The local built context has changed significantly over recent years following recent grants of planning permission for other schemes and it is considered that a sensitively designed residential allocation would have no problem integrating with the now established character. Indeed, Policy LHW4 implicitly recognises that sites outside of the PUA may have development potential. The Site is a suitable, available and deliverable opportunity to meet the housing needs of the SLP area and its allocation within the emerging NP is strongly encouraged.

We trust that these representations will be taken into account as the emerging NP progresses.

Yours faithfully,

[Redacted signature]

[Redacted signature]

**Principal Planner**

[Redacted signature]

Enc.

Appendix 1 – Site Location Plan



## **Appendix 1 – Site Location Plan**



**LEGEND**

— Redline Boundary  
3.98 Ac  
1.61 Ha

