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29 November 18

Tracey Smith
Programme Officer
Cheltenham Borough County Council

VIA EMAIL ONLY

Dear Tracey

Cheltenham Borough Local Plan – Examination In Public Attendance by Gloucestershire County Council acting as LEA.

McLoughlin Planning has been instructed by Gloucestershire County Council's Education Department (acting as Local Education Authority) to participate in the Examination of the Cheltenham Borough Local Plan. In terms of the County's participation in the Local Plan process, the County submitted a Representation on the Plan (Comment 1321) relating to the soundness of proposed housing allocation MD5. In that Representation, the County expressed support for the provision of a Secondary School on the allocation.

In this case, the County Council finds itself in the highly unusual situation that it has to reconsider its position in light of the objection from the Developer of allocation MD5. Furthermore, the promotor of the land (Miller Homes, c/o RPS) have made it clear they do not wish to see a Secondary School being allocated on the site. This is on the basis that the evidence supporting said school provision is considered to be unsound. In terms of the impact of this action, the County Council finds itself in the unfortunate position where it has to rapidly re-evaluate its position in terms of the provision of a Secondary School on allocation MD5. As a result of this, the County is now looking to promote land adjacent to allocation MD5 for a School development. This, in its mind, will address the fundamental soundness issue apparent in the Plan if the Miller Homes Objection is successful vis-à-vis removing the provision of a new Secondary School.

Clearly, matters are complicated by the fact that Comment 1321 does not object to Policy MD5. Furthermore, it is clear under Section 20(6) of the Planning and Compulsory Purchase Act 2004, that attendance at the Examination in Public (EIP) is limited to those who have sought changes in the Plan. As set out above, the County's position at the point when the Representations were submitted did not seek any changes. Given the unfortunate re-evaluation of the County position, I have been asked to secure a seat at the EIP so that it can be explained to the Inspector as to the rationale behind the County's changed position, and the soundness implications that would have for the Plan.

Notwithstanding the provisions of Section 20 of the 2004 Act, I also look at guidance provided by the Planning Inspectorate document 'Procedural Practice in the Examination of Local Plans June 2016 (4th Edition)'. In this document, at Section 3.11, it is made clear that an Inspector is not precluded from inviting other people to appear and be heard at a Hearing session. The test of whether a Third Party could be invited to appear and be heard at the session, is on the basis of the Inspector considering that that party is required to enable the soundness of the Plan to be determined. Further guidance is provided in Section 9 of the aforementioned document at paragraph 9.27.



In response, given the Miller Homes position, it is the County's position that it is simply essential for it to be present at the EiP on the basis that its involvement is critical to the soundness of allocation MD5 and therefore, the Plan as a whole. Our concern is that without appropriate representation, the Inspector would find herself in a position whereby there are parties ruling that the Plan is unsound because of the inclusion of a non-deliverable Secondary School allocation when at the same time, the County have come up with a viable alternative solution (in its view). The benefits of this approach is that it headlines a significant soundness issue at an early stage of the EiP process, allowing all parties to debate the issue now and ensure the timely running of the EiP process.

I appreciate that the nature of this request is somewhat unusual, but given the circumstances and the facts of the case in terms of involving the provision of a new Secondary School in a location where there is no disputed need for one, it is simply essential that any special dispensation is made to the County to allow them to attend in this capacity. I would be grateful if this could be put before the Inspector and I look forward to hearing from you in due course.

Yours sincerely

Nathan McLoughlin BSc (Hons) DipTP MRTPI
Managing Director