



**Matter 1: The evidence base for the submitted Cheltenham Plan
and its Vision**

23 January 2019

Cheltenham Local
Plan Submission
Examination On
Behalf of Miller
Homes

Main issue: Have the legal requirements for sustainability appraisal (SA), Strategic Environmental Assessment (SEA), and Habitats Regulation Assessment (HRA) been met?

1 Has the SA/SEA undertaken an assessment of reasonable alternatives for locally relevant policies and local (non-strategic) site allocations in the Cheltenham Plan? (ref SD017 Appendix VII)

1. The Inspector has requested that where participants have already set out their full cases within their existing representations there should ordinarily be no need for the production of further written statements in response to the MIQs.
2. We have set out clearly in our original representations to the Submission Plan that we do not believe the SA/SEA (SDO17) has undertaken an assessment of reasonable alternatives for locally relevant policies and non-strategic site allocations in respect of the proposed secondary school at Leckhampton as part of proposed policy H2, MD5.
3. As is clear from our original representations (ID 1221) the SA/SEA could not have undertaken an assessment due to the very late alteration to the plan to include the school. It is clear that the unpublished draft of the Submission Plan did not countenance a school and the MD5 site was included within Policy H1 as a residential site for 350 units. Evidence of this is provided in our original submissions. See SA/SEA paragraphs 6.17 and table at 6.18).

“Policy H1 Housing Development lists the sites allocated for housing development and includes two new sites – Land off Oakhurst Lane (80-100 dwellings) & Leckhampton (350 dwellings) – detailed SA findings in Appendix VII of this SA Report. The Policy continues to include sites b, d, h and l; sites c, e and g are not progressed at this stage as they already have planning permission now. Previous site f is now called Bouncers Lane and included as an allocation (part has planning permission). The Leckhampton site (previously site h) had been a strategic locational option (>500 dwellings) considered in the GCT JCS but was found through the examination to only be suitable for a local site allocation (350 dwellings) due to concerns about landscape and visual amenity impacts. The new allocations for land off Oakhurst Lane, Stone Crescent & Brockhampton Lane are now progressed to help meet the identified local need for housing. The Priors Farm site has been moved from mixed-use to housing policy. Site a is not progressed because of heritage and landscape concerns.”
Para 6.17

4. Late submissions (EDO11) have been accepted by Gloucester County Council, Local Education Authority, which themselves object to the inclusion of the school site within MD5. They state,

“the County is now looking to promote land adjacent to allocation MD5 for a School development” and “the inclusion of a nondeliverable Secondary School allocation” Letter from agents dated 29 November 2018.

5. In a letter to ourselves (RPS M1-1) the agents, McLoughlin Planning, confirmed,

“Having carefully considered the responses on the Local Plan and the County’s desire to deliver the School as quickly as possible, there has been a change in position whereby the County will be looking to promote its land adjacent to the Miller land (see attached Plan) for the new Secondary School. As a result, the

***County will not be supporting the School allocation on the Miller Homes land.”
Letter to RPS dated 30 November 2018.***

6. The agents confirmed they were looking to submit an application on their own land, south of MD5, in the early part of 2019.
7. Miller Homes object to the Council’s approach in selecting the school site. It is not compliant with the requirements of the Strategic Environmental Assessment Directive or that of the Environmental Assessment of Plans and Programmes Regulations 2004. The school selection has been undertaken without reasonable assessment of alternative and is an omission from the Council’s lawful requirement.
8. It is long established that all reasonable alternatives should be considered within the development plan and SEA/SA process, and that failure to do so is a matter of serious concern which can deem a Plan unlawful.
9. In the context of a plan or programme which promotes a particular kind of development, the duty to assess “reasonable alternatives” covers not only alternative options for that kind of development, but also alternatives to it: see *City and District Council of St Albans v SSCLG* [2010] J.P.L. 10 per Mitting J. at para.21.
10. Defects in earlier draft of an SEA may be cured by a later document, provided that it is not the case that no adequate assessment of alternatives was produced prior to adoption of the relevant plan or programme: see *Cogent Land LLP v Rochford DC* [2013] J.P.L. 170 at [124]. But note also the need for a SEA report to be subject to public consultation in a way that gives the public the ability to exert appropriate influence over the contents of the plan (see *Seaport Investment* [2008] Env. L.R. 23).
11. At no stage in the Local Plan preparation or Sustainability Appraisal process have reasonable alternatives for the proposed school been considered. The school did not form part of the plan making process prior to the draft of the Pre-Submission Plan. The Plan is therefore lawfully unsound.
12. Rather than making the plan unsound the local Planning Authority should accept main modifications to remove the school site from MD5 and revert to the previous draft plan of proposing 350 units on this site. This scheme has been consulted on with the local planning authority and with local stakeholders and critically was part of the SA/SEA. We would contend that the principle of development of the whole MD5 site for residential use has been accepted and consulted upon.

Appendix RPS – M1 – 1

Letter from McLoughlin Planning 30 Nov 2018

MP Ref: NM/0459
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30 November 18

Tim Partridge
RPS
VIA EMAIL ONLY

Dear Mr Partridge

Leckhampton Secondary School – Cheltenham Local Plan Examination in Public

McLoughlin Planning has been instructed to assist the County Council at the forthcoming Cheltenham Borough Local Plan Examination in Public in respect of its interests in the Leckhampton Secondary School allocation on MD5. Having carefully considered the responses on the Local Plan and the County's desire to deliver the School as quickly as possible, there has been a change in position whereby the County will be looking to promote its land adjacent to the Miller land (see attached Plan) for the new Secondary School. As a result, the County will not be supporting the School allocation on the Miller Homes land. In terms of the Miller Homes allocation, the County remains neutral on the relative merits of the housing allocation. In terms of moving forward, I would like to arrange a meeting with you to discuss the revised County position and whether there are any opportunities for joint working. Whilst I appreciate that this may come as something as a surprise, the County is committed to delivering this School which I feel that all parties accept that there is a need for and looking for opportunities for us to jointly work together and share evidence that could be beneficial to all parties involved.

In terms of other matters, it is the County's intention to pursue a Planning Application in the first half of next year. This Application will be submitted to the County Council for determination rather than be submitted to the Borough Council as promoters of neighbouring residential development land. The County felt that it was only right that you were notified of the County's first change of position and then secondly, its intention to proceed with a Planning Application. In terms of meeting dates, it would be beneficial if we could at least look to arrange an exploratory meeting before the Christmas break and I look forward to hearing from you regarding potential meeting dates. If a date before Christmas is not possible, then naturally we would look to meet at some point after the Christmas holiday in early January.

If you have any immediate questions please give me a call, otherwise I look forward to hearing from you regarding a proposed meeting.

Yours sincerely

Nathan McLoughlin BSc (Hons) DipTP MRTPI
Managing Director

