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Dear Tracey

Matter 4 of the Cheltenham Plan Examination Statement (Representor ID: 570 and comment ID: 1278)

This response in relation to Matter 4 of the proposed Examination Hearings into the Cheltenham Local Plan has been prepared by Ridge and Tetlow King Planning on the behalf of the West Cheltenham Consortium (Northern Trust Company Ltd, Barberrry Cheltenham and Midlands Land Portfolio Ltd) in relation to their land interests at West Cheltenham. I would be grateful if the Inspector could be provided with a copy of this statement.

As you will be aware, the site is allocated for development within the Joint Core Strategy under policy A7 for

- i. *“Approximately 1,100 new homes*
- ii. *Approximately 45 hectares of B-class led employment land to be focussed upon a cyber security hub and other high technology and high ‘Gross Value Added’ generating development and ancillary employment uses;*
- iii. *All development should be employment led, delivery of housing must be in tandem with employment development;*
- iv. *A **comprehensive masterplan** and development strategy for the Strategic Allocation, set within the context of safeguarded land at West Cheltenham, which includes:*
 - a. *A delivery strategy for employment focussed land release*
 - b. *A positive impact on the regeneration of neighbourhoods in West Cheltenham*
 - c. ***Integrates built form and a comprehensive network of accessible green infrastructure, including local green space**”. (our emphasis)*

The West Cheltenham Consortium is currently preparing a planning application, which is anticipated to be submitted in Spring/Summer 2019 to Cheltenham and Tewkesbury Borough Councils.

Question 2: Have all the landowners of sites proposed for LGS been consulted?

Whilst the West Cheltenham Consortium is aware of the proposed LGS allocation, they have not been actively consulted on the proposal. The Consortium is currently undertaking extensive and detailed pre-application discussions with the LPA on their forthcoming planning application for the site. The LPA have seen and are aware of the draft masterplan for the site, together with the justification for this. The proposed LGS allocation is not in accordance with the evolving masterplan.

Whilst the Consortium is aware of the proposals, there appears to be no justification or reasoning for the LGS put forward within the Cheltenham Plan for this site.

Question 5: Table 8 of the CP proposes significant areas of LGS to be identified at Leckhampton Fields, the North-West Cheltenham Strategic Allocation at Swindon Village, and at the West Cheltenham Strategic Allocation. Is there any evidence that areas of 39.91, 24.5 or 18.26 hectares could be considered not to be ‘an extensive tract of land’?

The response focuses solely on the West Cheltenham allocation. The NPPF 2012 is clear at paragraph 77 that LGS the designation should only be used where *“the green area of land concerns is local in character and is not an extensive tract of land”*. The PPG does not specify an upper size limit in relation to LGS, however it is clear *“that Local Green Space designation should only be used where the green area concerned is not an extensive tract of land. Consequently, blanket designation of open countryside adjacent to settlements will not be appropriate. Designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.”* (ref: 37-015-20140306)

In the case of the West Cheltenham allocation, the proposed LGS of 18.25 hectares extends the length of the proposed allocation and extends a significant way into the site thereby reducing the developable area within the allocation. The supporting text for this policy provides no justification as to why these extensive areas of LGS have been allocated and why the LPA consider that a departure from the draft masterplan is justified and should be removed as a consequence.

Planning Inspectors have been highly critical of local authorities who have sought to apply the LGS designation too extensively in their local plans. South Cambridgeshire Local Plan is an example and a copy of the Inspector's interim finding in respect of Policy NH/12 Local Green Space (16 March 2017) is enclosed. The Inspector's report criticises the approach taken by the Council, stating that:

“They have serious concerns that the Council’s assessment of the proposed LGS designations has not been carried out with sufficient rigour nor focussed fully on the stringent criteria set out in the framework which sets a high bar given that LGS sites enjoy the same level of protection as Green Belt land.” (page 3)

The Inspector discounted a series of sites on the basis that they were not demonstrably special or valued landscapes and consequently they did not meet the LGS tests. It is clear that South Cambridgeshire District Council (SCDC) sought to apply the designation too widely and included anything from small grass verges in housing estates to allotments and agricultural fields. On the basis of the Inspector's recommendations, SCDC has substantially reduced the number of LGS proposals with only 42% of the original sites remaining as LGS.

Cheltenham Borough Council has taken a similar approach to South Cambridgeshire and has proposed 86 separate LGS designations pre-submission local plan which does seem unduly disproportionate on the basis that paragraph 77 advises that the designation will not be appropriate for most green areas or open space. The Local Green Space Topic Paper is not a robust evidence base document and does not justify the Council's approach to the LGS designations. In this regard, the LGS as shown in the emerging Cheltenham Plan where West Cheltenham is concerned should be removed in its entirety and the provision for LGS should be provided in tandem with the development of the West Cheltenham masterplan and forthcoming application.

Question 8: Is the scale of LGS proposed at West Cheltenham justified?

The designation of Local Green Space should not be considered without suitable and substantial justification as policies for managing development within a Local Green Space should be consistent with those for Green Belts (paragraph 78 NPPF 2012). This is a very high threshold to reach. Paragraph 77 (NPPF 2012) is clear that it will not be appropriate for most green areas or open space and to this end the LGS as set out in the Cheltenham Plan is not acceptable and should be removed.

Paragraph 76 of the NPPF 2012 sets out that *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.*

Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”

Paragraph 77 (NPPF2012) and paragraph 100 (NPPF 2018) goes on further to state that *“The Local Green Space designation should only be used where the green space is:*

- a) in reasonably close proximity to the community it serves;*
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- c) local in character and is not an extensive tract of land.”*

The most recently developed masterplan for the site as part of the planning application proposes secure the provision of approximately 14ha of Local Green Space (LGS) as part of a wider network of open space. A plan of our proposed area of LGS is enclosed. This has been designed specifically to better serve both the new community created through the West Cheltenham development and the existing wider community as a whole. The LGS would consist primarily of an amenity landscape corridor running along the eastern boundary of the site, ranging in size from between 30-75m in width and containing a range of uses including wildlife planting, sports pitches, play areas as well as pedestrian and cycle links. We also enclose images depicting how these spaces could be used by the community. This masterplan has been developed having regard to the constraints of

the site and the detailed requirements within policy A7 of the Joint Core Strategy. This is a comprehensive strategy which will ensure delivery of the site over the long-term.

The proposed LGS Allocation is identified within the 'Local Green Space Topic Paper, The Cheltenham Plan 2011-2031' (January 2018). The only justification provided for this designation of 18.5 hectares is that *"Policy A7 of the JCS requires the West Cheltenham Strategic Allocation site to include Local Green Space as part of a network of green infrastructure."*

As has been set out above, the NPPF at paragraph 77 is clear that LGS should only be designated under exceptional circumstance, it plainly states that the land must be of local significance, special to the community for example because of its beauty, historic significance, recreational value, tranquillity or richness of its wildlife, local in character and not be an extensive tract of land.

The proposed LGS at West Cheltenham is not of local significance as the site is currently an agricultural field and it is not of historic significance nor is of recreational significance as it is private land. Furthermore, the 18.5 hectares represents an extensive tract of land and is not local in character.

The NPPF 2012 at paragraph 77 considers the richness of wildlife on the site as one of the criteria. The site is currently farmed agricultural land and as part of the forthcoming planning application extensive ecology surveys have been undertaken on the site over the last couple of years. This has not identified anything of ecological value on the site.

Paragraph 77 is explicit that not all open space warrants LGS protection and that the designation should be used cautiously and not applied unnecessarily to all green spaces. Indeed, the emerging masterplan for West Cheltenham is proposing to provide LGS as part of a wider network of open space (approximately 65ha). Therefore, the allotted 18.5ha of LGS at West Cheltenham is arbitrary and unjustified as it does not take account of other areas of open space that will be provided and do not warrant LGS protection.

Accordingly, the Council's LGS designation for West Cheltenham is excessive in scale and contrary to NPPF and PPG. Consequently, the local plan fails the test of soundness as it is not justified or consistent with national policy.

Not only is the scale of the LGS excessive and contrary to the NPPF and PPG, we also object to the location of the proposed LGS. A key objective of the West Cheltenham masterplan is to design a new community that integrates with existing community by creating a highly permeable development with amenities and facilities, such as open space, which is accessible to all. The Local Plan's West Cheltenham LGS proposals shows a larger belt of LGS on the eastern boundary that will increase the physical separation of the two communities and hinders integration.

Therefore, the local plan proposals undermine the objective of the masterplan to create a mixed and balanced community that integrates with the existing community. This also runs counter to the NPPF's overarching objective of achieving sustainable development.

As has been previously set out within our March 2018 representation (attached), **we strongly object** to the proposed Local Green Space within the emerging Cheltenham Local Plan, which ultimately undermines the allocation of West Cheltenham within the JCS.

Concluding comments

- As is set out above, the provision of green infrastructure is considered to be a key component, and should be an integral part of the development of a comprehensive masterplan for the entire site and this includes the provision of LGS.
- In the case of the West Cheltenham proposed LGS allocation, it is our opinion that the allocation is contrary to NPPF and PPG and should therefore be removed from the emerging Cheltenham Plan.
- The proposed allocation of Local Green Space within the Cheltenham Local Plan appears premature and out of sync with the requirement to provide a comprehensive masterplan as set out in policy A7 of the Joint Core Strategy.

- The sites allocation as Local Green Space will seriously prejudice the masterplan approach and the overall deliverability of the site thereby undermining the entire allocation within the Joint Core Strategy.

As a result, it is requested that the Inspector removes the proposed Local Green Space from the emerging Cheltenham Local Plan in its entirety and continues to develop this as part of the emerging masterplan for the site in line with policy A7 of the Adopted JCS.

I trust this letter clarifies matters and the West Cheltenham Consortiums representatives will be able to answer any further questions at the forthcoming public examination of the plan.

Yours sincerely

Giles Brockbank MRTPI
Partner
For Ridge and Partners LLP



The Planning Inspectorate

Report to South Gloucestershire Council

by Louise Phillips MA (Cantab) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 21 September 2017

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Policies, Sites and Places Plan

The Plan was submitted for examination on 14 November 2016

The examination hearings were held on 7, 8, 22 and 23 February 2017

File Ref: PINS/P0119/429/9

Abbreviations used in this report

AONB	Area of Outstanding Natural Beauty
HIA	Health Impact Assessment
HRA	Habitats Regulations Assessment
JSP	West of England Joint Spatial Plan, 2016-2036
HSRC	Housing Standards Review Consultation, August 2013
LGS	Local Green Spaces
LDS	Local Development Scheme
MM	Main Modification
NDSS	Nationally Described (Minimum Internal) Space Standards
NLP	South Gloucestershire New Local Plan, 2016-2036
NPPF	National Planning Policy Framework
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
PPG	Planning Practice Guidance
PSPP	Policies, Sites and Places Plan
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SHMA	Strategic Housing Market Assessment
WMS	Written Ministerial Statement

Non-Technical Summary

This report concludes that the Policies, Sites and Places Plan provides an appropriate basis for the planning of South Gloucestershire provided that a number of main modifications are made to it. South Gloucestershire Council has specifically requested me to recommend any main modifications necessary to enable the Plan to be adopted.

The main modifications were either proposed by the Council, or have arisen as a result of discussions at the examination hearings. They were subject to sustainability appraisal and to public consultation over a six-week period. In some cases I have amended their detailed wording. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The main modifications recommend changes necessary to make certain policies justified, effective and consistent with national policy. The key recommendations can be summarised as follows:

- Revising the list of designated Local Green Spaces to take full account of sites with potential for housing development, educational and highways land, and to enable the re-assessment of sites for which soundness has not been demonstrated;
- Amending the Onsite Renewable and Low Carbon Energy policy to take account of impending changes to legislation;
- Enabling the Director of Public Health to provide early advice about whether a Health Impact Assessment is required, and of what type;
- Providing flexibility in respect of how far developments can be located from services and facilities for transport management purposes;
- Removing maximum car parking standards for non-residential developments;
- Identifying specific sites for retail development in defined centres;
- Removing the application of Nationally Described (minimum internal) Space Standards and accessibility standard M4(2) to market housing;
- Amending the policy on Self and Custom Housebuilding to prioritise the provision of plots meeting the definition in legislation;
- Removing the "delivery objectives" associated with the Oldbury New Nuclear Build.

Introduction

1. This report contains my assessment of the Policies, Sites and Places Plan (PSPP) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended) (PCPA). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy (paragraph 182).
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The PSPP, submitted in November 2016, is the basis for my examination. It is the same document that was published for consultation in July 2016.
3. However, shortly after the plan was submitted, the Council consulted upon a schedule of suggested modifications which it had prepared to address some of the representations made when it was published. The Council's position was that I should treat the suggestions as potential main modifications (MMs) to the plan (see below). Consequently, I have had regard to the suggested modifications, and the representations made in response to them, throughout the examination process. Where necessary, the suggested modifications were discussed at the relevant hearing sessions. This process informed the final MMs schedule prepared and consulted upon by the Council.

Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any MMs necessary to rectify matters that would make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2, MM3** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and carried out sustainability appraisal of them. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report and, in their light, I have made some amendments to the detailed wording of the main modifications where necessary for consistency or clarity. None of the amendments significantly alters the purpose of the modifications as published for consultation, or undermines the participatory process and sustainability appraisal that has been undertaken.
6. The Council is accountable for any additional modifications it might make to the plan upon its adoption. They should not materially affect its policies, and they are outside the scope of this report.

Policies Map

7. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to

provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as Policies Map Changes, June 2016, as set out in Documents SD2, SD2a and SD2b.

8. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the proposed MMs to the Plan's policies require further corresponding changes to be made to the policies map. There are some instances where the geographic illustration of policies on the submission policies map is not justified and changes are needed to ensure that the relevant policies are effective. These further changes to the policies map were published for consultation alongside the MMs, in the document entitled *Changes to the Policies Map, June 2017*.
9. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include the changes proposed in Documents SD2, SD2a and SD2b, subject to the relevant amendments/additions published alongside the MMs and incorporating any necessary amendments resulting from the recommendations in this report.

Assessment of Duty to Co-operate

10. Section 20(5)(c) of the PCPA requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
11. The PSPP is a subordinate plan to the Council's Core Strategy adopted in December 2013. The Core Strategy is the principal strategic element of the Council's Local Plan and, as set out in Document SD3, the PSPP gives rise to only limited additional strategic matters with cross-boundary implications. Having regard to the Council's assessment in SD3, and to the representations made in relation to the PSPP, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan. The duty to co-operate has therefore been met.

Assessment of Soundness

Main Issues

12. Taking account of all the representations, the written evidence and the discussions at the examination hearings, I have identified four main issues upon which the soundness of the PSPP depends. My report deals with the main matters of soundness in relation to those issues and does not respond to every point raised by representors. Thus, while the PSPP includes 47 Policies, I shall only address those which give rise to soundness issues in my report. Those policies which are not referenced below are therefore sound as submitted.

Issue 1 – In light of the acknowledged shortfall in the Council's five year housing land supply when measured against the requirement in the Core Strategy, can the PSPP be sound in the absence of non-strategic housing allocations?

13. South Gloucestershire's housing requirement for the period 2006-2027 is set out in Policy CS15 of the Core Strategy, adopted in December 2013. At present, the Council cannot provide a five year supply of specific deliverable sites as required by paragraph 47 of the NPPF, and it did consider addressing the shortfall by allocating sites in the PSPP. However, this could not be achieved without either releasing land from the Green Belt or otherwise departing from the strategy of urban focus set out in Policy CS5 of the Core Strategy. Therefore the Council decided to exclude new housing allocations from the submitted plan and amended the scope of the document in its Local Development Scheme (known as the Local Plan Delivery Programme) accordingly.
14. Together, the adopted Core Strategy and adopted Local Plan, January 2006, identify a land supply which should be sufficient to meet the requirements of CS15. The relevant allocations in the 2006 Local Plan are proposed to be carried forward in the PSPP. Whilst the Core Strategy does indicate that defined settlement boundaries around villages could be reviewed in the PSPP, it is also clear that this could be done instead by a replacement Local Plan or Neighbourhood Plans (paragraphs 1.6, 6.12). The option to do it in the PSPP was intended to enable additional growth in villages where this was locally desired, but the Core Strategy does not delegate any specific responsibility for allocating housing sites to this Plan. There is no fundamental inconsistency between the two documents in this respect.
15. The Core Strategy states that the Local Plan for South Gloucestershire will comprise of three documents: the Core Strategy itself, the PSPP and the Joint Waste Core Strategy. However, work on a South Gloucestershire New Local Plan, 2018-36 (NLP) is already in progress, largely as a consequence of the Council's commitment to work with neighbouring authorities on the West of England Joint Spatial Plan, 2016-36 (JSP). The latter is due for adoption by Autumn 2018. Section 17(3) of the PCPA contemplates a modular structure to the development plan, and so the Council is justified in preparing different documents at different times in response to emerging issues.
16. The JSP will identify cross-boundary needs for housing and other uses to 2036. The housing requirement in the Core Strategy will be revisited, and it is already apparent that a new locational strategy might be necessary to comply with paragraph 47 of the NPPF. The NLP, due for adoption by February 2019, will identify sites to deliver South Gloucestershire's share of the housing required by the JSP. With this plan, the Council has a suitable alternative to the PSPP for addressing the matter of housing land supply within a relatively short timeframe.
17. In the absence of a five year land supply, the Council acknowledges that the terms of paragraphs 49 and 14 of the NPPF might present consequences in the form of unplanned development. However, whether and how those policies should apply will be for the judgement of a decision-maker in a planning application scenario. They do not bear upon whether the PSPP is sound in the

context of a development plan examination (see Issue 2 further). Moreover, little if any time would be saved by trying to include site allocations in the PSPP at this stage. The PSPP as submitted does not remove the risks associated with unplanned development, but it will provide up to date development management policies against which any relevant proposals could be assessed.

18. For the reasons above, the absence of housing allocations in the PSPP does not render it inconsistent with the Core Strategy; and the Plan is not required to address the current conflict between Policy CS15 of the Core Strategy and paragraph 47 of the NPPF. Consequently it does not conflict with national policy in this regard and so, in respect of its overall scope, the PSPP is both legally compliant and sound. Nevertheless, to ensure that the Council's Development Plan is accurately described, paragraph 1.1 of the PSPP should be amended to clarify that this forms part of the Local Plan for South Gloucestershire (**MM1**).

Issue 2 – Do Policies PSP40 (Residential Development in the Countryside) and/or PSP4 (Designated Local Green Spaces) act to restrict the supply of housing? If so, in light of the acknowledged shortfall in the Council's five year housing land supply when measured against the requirement in the Core Strategy, is this justified?

19. In accordance with Policy CS5 of the Core Strategy, Policy PSP40 of the PSPP would prevent the building of general market housing in the open countryside. Clearly, therefore, it would act to restrict the supply of housing. Policy PSP4 would prevent most types of development on designated local green spaces (LGS) other than in very special circumstances. No space with any specified development ambition is proposed to be designated, but nor has it been assessed whether any of the proposed spaces could accommodate housing. Therefore, this policy could potentially act to restrict the supply of housing.
20. Nevertheless, in the case of *Oxted Residential Limited vs. Tandridge District Council*¹, the Court held that "*The status of the controversial policies in the local plan part 2 – either as '[relevant] policies for the supply of housing' under the policy in paragraph 49 of the NPPF or not – was not a matter for the inspector, or the council, to resolve in this plan-making process. It was not a question bearing on the soundness of the local plan part 2, or otherwise within the ambit of the matters the inspector had to consider under section 20(5) of the 2004 Act*" (paragraph 45).
21. There are of course contextual differences between the *Oxted* case and that before me, but none lead me to diverge from the Court's conclusion. Applying it here, it is in principle legitimate for the Council to include PSP4 and PSP40 in the PSPP notwithstanding the present lack of a five year land requirement as set in the Core Strategy. The question of whether PSP4 and PSP40 are not "up-to-date" within the scope of paragraph 49 of the NPPF, and the matter of how much weight they should be given if they are not, will be for the planning judgement of the decision-maker determining an application for planning permission.

¹ *Oxted Residential Limited vs. Tandridge District Council* [2016] EWCA Civ 414.

22. The Court in the Oxted case did deem it appropriate to consider whether the policies at issue would be unduly restrictive. On the basis that it would support the locational strategy set by Policy CS5 of the Core Strategy, Policy PSP40 would not be unduly restrictive. Policy PSP4 (as modified) would designate close to 250 LGS of varying size and would thus represent a significant planning constraint. However, for reasons discussed further under Issue 3, the Council's assessment process is generally robust; and it has obviously taken account of the five year land supply situation. With the modifications recommended below, I am satisfied that the proposed designations are consistent with paragraphs 76 and 77 of the NPPF.
23. More generally, the NPPF includes numerous provisions which seek positive planning to deliver identified development needs in full. However, it does not advocate this at any cost and there is clearly a place for properly considered restrictive policies. By virtue of paragraph 49, the NPPF is set up to deal with the present housing land shortage and to ensure that this matter is appropriately weighed in the balance in any relevant decisions. Overall, therefore, I conclude that the inclusion of policies PSP4 and PSP40 in the PSPP is sound.

Issue 3 – Is Policy PSP4 (Designated Local Green Spaces) based on a robust and consistent assessment process?

24. Around 590 spaces were nominated as potential LGS and, as modified, the PSPP would designate close to 250. In the context of the 11,000 or so open spaces managed by the Council across its administrative area, 250 is not an excessive number. All the nominated spaces have been assessed against a set of criteria which reflect the advice in the national Planning Practice Guidance (PPG) and the provisions of the NPPF.
25. As indicated above, the criteria have also been formulated to maximise the opportunity for finding housing land in the future given the present shortfall in the five year supply. Any nominated site which has either known or suggested potential to accommodate housing has been excluded at this stage, to be reviewed through the preparation of the NLP. It is possible that some of these sites might ultimately meet the criteria for LGS designation, and their exclusion does not predetermine their future development. However, the housing land supply situation justifies the precautionary approach.
26. LGS should be capable of enduring beyond the plan period (NPPF, paragraph 76) and paragraph 72 of the NPPF requires great weight to be given to the need to create, expand or alter schools. Therefore, the exclusion of nominated spaces (or parts of nominated spaces) comprising educational sites and school or college playing fields is justified. Highway land subject to permitted development rights has also been excluded, along with land within 15m of main highway routes with possible future investment potential. This is so that highway schemes which might become necessary in the future are not prejudiced by the LGS designation. This approach is justified by reference to paragraph 76 of the NPPF, which requires LGS to complement investment in essential services. Where the size of a nominated site has been significantly reduced by these constraints, the remaining area has only been designated as LGS where the purpose of the designation would not be compromised.

27. Generally, I have no reason to be concerned that the assessment criteria have not been applied correctly to nominated sites. Furthermore, the Council went to considerable lengths to inform landowners about the criteria for, and consequences of, designating a LGS. It has responded to representations made throughout the preparation of the plan and during the examination process. Overall, the consultation method has been successful in enabling landowners to respond to a nomination; and relatively few continue to object to the proposed designation of their land. Given the number of spaces the Council was required to assess, the evidence submitted by nominators was only systematically challenged if an objection was lodged. This was both pragmatic and proportionate.
28. However, in most of the cases where a landowner continues to object to the designation of a space, those objections have not been robustly addressed. The conclusions set out in Document GS1 essentially confirm that the spaces meet the relevant criteria, but they do not counter the points of opposition. In particular, they lack an assessment of whether sites already protected for other purposes would derive additional local benefit from LGS designation; and whether several designated sites together would constitute an extensive tract of land. Whilst Document E25 provides further reasoning, this employs standard explanations and does not amount to a considered assessment of each space.
29. Therefore, in these specific cases, the evidence provided and conclusions reached do not justify the designation of the spaces as LGS in the PSPP. Consequently, **MM30** requires that Appendix 2 of the PSPP excludes such spaces. The supporting text to Policy PSP4 should explain that the nominated sites rejected at this stage, including those where an objection remains as described above, will be reviewed during the preparation of the NLP (**MM5**). **MM30** further includes amendments to the list of designated spaces to reflect new evidence which has emerged since the Plan was submitted. The modifications will ensure that the relevant exclusions related to housing potential, education and highways are made consistently and comprehensively. The policies map should be updated to reflect Appendix 2 as modified, including any relevant boundary changes.

Issue 4 - Are certain policies in the PSPP justified, consistent with national policy and sufficiently clear as to be effective in their purpose?

General Viability

30. Certain policies in the PSPP would impose requirements upon development that would have financial implications. Particular concern was expressed in relation to PSP6 – Onsite Renewable and Low Carbon Energy; PSP37 – Internal Space and Accessibility Standards; PSP42 – Custom Build Dwellings; and PSP43 – Private Amenity Space Standards. However, having regard to paragraph 173 of the NPPF, the evidence in Documents V1, V2, OS5 and S2 demonstrates that the cumulative impact of the standards in the plan would not put the delivery of development at serious risk. Therefore, I do not address the matter of viability further in relation to these policies, but I consider their soundness in other respects below.

PSP1: Local Distinctiveness

31. A key aim of this policy is to ensure that developers undertaking context appraisals to inform their proposals look beyond existing indistinct examples in the locality. Neither the policy wording nor the supporting text is presently strong enough to give effect to this aim and so **MM2** is necessary.

PSP2: Landscape

32. The protective provisions of this policy reflect the presence of just two levels in South Gloucestershire's hierarchy of landscapes – Area of Outstanding National Beauty (AONB); and everything else. Overall, the policy is consistent with paragraph 113 of the NPPF, but for justification and effectiveness, it should be clarified that development proposals should conserve and enhance what is *special* about any relevant landscape. This should be done by reference to the Landscape Character Assessment. Further, the policy does not presently contemplate a proposal which might impact upon the more ordinary elements of the landscape. In view of the hierarchical approach to landscape protection, such a provision is required to achieve justification and effectiveness.
33. In respect of the AONB, PSP2 seeks to protect designated land, and land affecting the setting of designated land, in the same way, which is not consistent with paragraph 115 of the NPPF. Similarly, the NPPF sets out how major development proposals in the AONB should be assessed and, as there is no intention to operate different criteria, this should be clarified in the PSPP. **MM3** is included to address the foregoing issues.

PSP3: Trees and Woodland

34. The policy wording is confused in respect of the circumstances in which replacement trees would be required. **MM4** consists of modifications necessary to overcome this issue. It also includes additions to the supporting text to achieve consistency with paragraph 118 of the NPPF; and to provide sufficient detail for effective implementation.

PSP5: Undesignated Open Spaces within Urban Areas and Settlements

35. This policy seeks to ensure that the contribution made by undesignated open space to the character of an area is properly considered in development proposals, an aim consistent with the provisions of the NPPF in requiring good design. However, changes are required to make the first policy paragraph effective; and the second paragraph, which appears to require off site mitigation, is not justified and should be deleted. **MM6** is therefore necessary.

PSP6: Onsite Renewable and Low Carbon Energy

36. The inclusion of a policy seeking to reduce carbon emissions is, in principle, justified by reference to Section 19(1A) of the PCPA and Section 10 of the NPPF. However, once in force, the Deregulation Act 2015 (Section 43) will amend the Planning and Energy Act 2008 (Section 1) so that development plan documents could not require new dwellings to comply with energy efficiency standards exceeding those in building regulations. Therefore, the hierarchical approach to energy reduction in major residential development

proposals advocated by PSP6 risks becoming obsolete, and so neither justified nor effective. **MM7** is necessary to overcome this issue of soundness. It is also necessary to ensure that the baseline from which carbon emissions should be reduced by 20% is unambiguous; and that the technical terminology used within the policy can be clearly understood.

PSP8: Residential Amenity

37. The Council intends to assess proposals for development against its Technical Advice Note: Assessing Residential Amenity, June 2016. For clarity and effectiveness, this document should be referenced in the supporting text (**MM8**).

PSP9: Health Impact Assessments (HIA)

38. PSP9 intends to go beyond the general expectation in Chapter 8 of the NPPF that planning will promote healthy communities by means such as ensuring access to an appropriate range of services and facilities. The PPG (paragraph 004, ID53-004-20140306) confirms that HIA can serve a useful purpose at the planning application stage; and the examples in evidence support this, including for allocated sites. The aim of the policy is therefore justified.
39. However, PSP9 would require the submission of a HIA for all "very major" developments. In the absence of specific evidence that individual schemes are likely to have a significant impact upon the health and wellbeing of the local population, this requirement is not justified by reference to the PPG. The latter advises consultation with the Director of Public Health as part of the process to establish whether a HIA would be a useful tool. **MM9**, which enables the Director of Public Health to provide guidance early in the process, is therefore required to make the policy sound.
40. In addition, the policy relies upon a forthcoming "Planning Advisory Note" for details of how an HIA should be undertaken and its findings implemented. This document might not be produced for 12 months and, in its absence, it is not clear how an applicant for planning permission should respond to the requirements of the policy. Consequently it is not effective and **MM9** includes modified wording to overcome this. The modification is also necessary to clarify that all developments should comply with the more general requirements set out in the second and third paragraphs of the policy as modified.

PSP11: Transport Impact Management

41. Consistent with Chapter 4 of the NPPF, PSP11 includes provisions to promote walking, cycling and the use of public transport. To this end, it specifies how far away from bus stops and/or particular services and facilities both residential and commercial development can be located. Document OS6 demonstrates that the relevant distances are well-considered and evidence based. Their use as a guide within the PSPP would therefore be sound.
42. However, the policy is unduly prescriptive such that development just outside the relevant distance thresholds would automatically be non-compliant. The Council intends a more measured approach and **MM10** reflects this, to ensure

sufficient flexibility and effectiveness. Amendments to the provisions concerning traffic generation and congestion are also required to make them consistent with the NPPF.

PSP13: Safeguarding Strategic Transport Schemes and Infrastructure

43. The policy wording should be amended to clarify that the A38 Combination Ground Underpass is allocated in the Plan rather than safeguarded (**MM11**).

PSP15: Park and Ride/Share

44. The policy wording and supporting text should be amended to clarify that land for the relevant facilities at Nibley and Tomarton is allocated in the Plan rather than safeguarded (**MM12**).

PSP16: Parking Standards

45. The Written Ministerial Statement (WMS) of Sir Eric Pickles (then Secretary of State), dated 25 March 2015, amended national planning policy to "*further support the provision of car parking spaces*". Consequently, local parking standards should only be imposed for residential and non-residential development where there is clear and compelling justification that they are necessary to manage the local road network. This is a high test.
46. Policy PSP16 seeks to impose minimum car parking standards for residential developments; and maximum car parking standards for non-residential developments. Rates of car ownership in South Gloucestershire are high compared to the national average, and problematic on-street parking has occurred in some residential areas as a consequence of previous national maximum standards. On this basis, the minimum residential standards now proposed are justified and consistent with the aims of national policy. However, **MM13** includes changes to enable the effective implementation of the clause concerning standards for people with disabilities.
47. Policy PSP16 further intends to introduce *maximum* parking standards for non-residential developments as part of a package of measures designed to encourage a shift towards modes of transport other than the private car. Supporting modal shift is wholly consistent with national policy in Chapter 4 of the NPPF, but it is separate from the question of whether maximum parking standards are necessary to manage the local road network. In this respect, the national studies referred to by the Council all pre-date the Government's current position on this matter set out in the WMS; and the local traffic count and flow data prepared by the Department for Transport does not amount to a clear and compelling justification for the standards proposed.
48. Therefore, the non-residential standards required by the policy are not sound. **MM13** omits the relevant policy wording and associated schedule; and modifies the supporting text accordingly.

PSP17: Heritage Assets and the Historic Environment

49. The provisions of this policy concerning development which would impact negatively upon a heritage asset would require a developer to demonstrate

that no alternative proposal could deliver similar benefits with less harm. However, a decision-maker must react to the proposal before him or her even if no alternative is forthcoming. Therefore, such a clause is neither justified nor practicable and it should be omitted (**MM14**). An addition to the supporting text is included to clarify how a developer should determine the significance of a heritage asset.

PSP19: Wider Biodiversity

50. The policy wording relating to irreplaceable habitats is inconsistent with paragraph 118 of the NPPF and **MM15** is therefore necessary. The modification includes an addition to the supporting text to clarify how opportunities to incorporate biodiversity in and around developments will be realised.

PSP20: Flood Risk, Surface Water and Watercourse Management

51. This policy seeks to manage potential flood risk associated with development. Its provisions are derived in part from the South Gloucestershire Strategic Flood Risk Assessment Level 2, and have regard to advice from the Environment Agency. In respect of surface water discharge, however, the Council intends that different approaches should apply to previously developed and greenfield sites. **MM16** sets out the modifications required to clarify this and thereby ensure effectiveness.

PSP21: Environmental Pollution and Impacts

52. The NPPF seeks to prevent new and existing development from contributing to, or being put at "unacceptable risk" from pollution and land instability. PSP21 would require development proposals to "avoid any adverse impacts" of pollution upon the environment or public health, safety or amenity. This more onerous test has not been justified and so **MM17** is necessary to achieve consistency with national policy.

PSP25: Hydrocarbon Extraction (including Fracking)

53. This policy requires the effects of fracking operations to be appraised during the various stages of the process. In response to specialist representations, it is necessary to amend the policy so that the assessment criteria apply at the most appropriate stages (**MM18**). This will ensure effectiveness.

PSP27: B8 Storage and Distribution Uses

54. This policy includes provisions concerning the scale of storage and distribution facilities appropriate in different locations. In this respect, the wording of the first policy paragraph is confusing and requires clarification. Furthermore, it is not clear whether the fourth paragraph regarding proposals served by a rail connection is intended to stand alone, or whether additional criteria apply; and reference to "developments of an exceptional nature" in the supporting text should be omitted because this simply equates to development in excess of 3,000sqm. **MM19** modifies the policy to address the foregoing and thereby achieve clarity and effectiveness.

PSP31: Town Centre Uses; and PSP33: Shopping Frontages

55. PSP31 seeks to accommodate retail and other main town centre uses within the existing hierarchy of centres set out in Policy CS14 of the Core Strategy. It would meet the identified need for 18,000sqm of comparison retail floorspace by 2021 rather than the total 34,000sqm by 2026 required by the Core Strategy, but CS14 provides for this to be done either in the PSPP or a replacement Core Strategy/Local Plan.
56. In light of the uncertainty surrounding the post-2021 forecasts (Document OS3, paragraphs 4.2.3-4.2.11) the NLP provides the appropriate route for reviewing and addressing this matter. As this is due to be adopted by early 2019, paragraph 23 of the NPPF can be satisfied within a relatively short period and, in the interim, out of centre retail proposals can and have been assessed with reference to the relevant sequential and impact tests. In respect of the latter, the evidence presented in Document OS3 justifies the requirement for schemes larger than 350sqm to be subject to an impact assessment.
57. For the reasons above, the overall approach to Policy PSP31 is sound. However, as there is no intention for main town centre uses to be directed anywhere other than the town and district centres, **MM20** omits the word "primarily" from Clause 1 of the policy. For accuracy and effectiveness, it further requires that "The Mall" at Cribbs Causeway is not described as a retail park; that text be added to clarify the type of development for which an impact assessment will be needed; and that the supporting text should explain how retail needs after 2021 will be reconsidered and met.
58. Clause 3 of the policy identifies the centres in which significant additional comparison retail floor space will be acceptable. In Stoke Gifford, Bradley Stoke and Kingswood Town Centres, specific sites have been identified to accommodate the growth required. To be effective in providing certainty of delivery, this should be made clear in the policy and supporting text and the relevant sites should be defined on the Policies Map. Similarly, it should be made clear that the growth required in Emersons Green and Yate Town Centres is expected to be delivered by intensification within the defined Primary Shopping Areas. **MM20** includes these changes which are necessary to achieve effectiveness.
59. In Yate Town Centre, it is proposed to extend the Primary Shopping Area to the west to include a site occupied by B&Q. Notwithstanding the positive contribution this makes to the range of retail goods available locally, the site is not well connected to the core shopping area and so it is not justified to afford it equal status. To ensure the vitality and viability of the core, it is important that outlying sites such as this should be subject to impact assessment if new development is proposed. Therefore, as a consequence of **MM20**, the B&Q site should be removed from the Primary Shopping Area. This would neither undermine B&Q's present trading position; nor prejudice any future operator from selling similar goods.
60. PSP33 seeks to protect the shopping and wider town centre function of defined primary and secondary frontages. For the policy to be effective in Yate, it is necessary to define additional secondary frontages along Station Road and

within the recent Riverside development; and to remove part of the designation proposed along Kennedy Way (**MM21**).

PSP34: Public Houses

61. This policy is intended to support the retention of public houses. It includes a requirement to demonstrate that a pub has been vacant for at least two years to determine that it is non-viable. This has the potential to impact negatively upon the vitality and viability of key retail centres and so it should not apply in Primary Shopping Areas. **MM22** overcomes this and ensures effectiveness.

PSP37: Internal Space and Accessibility Standards for Dwellings

62. PSP37 would require all new market and affordable housing to be built to the nationally described (minimum internal) space standards (NDSS) and accessibility standard M4(2). Eight per cent of affordable units would also be required to meet wheelchair standard M4(3) where the Council was responsible for allocating them to a particular person.
63. The WMS is clear that these standards should only be required if they address a clearly evidenced need, and where their impact on viability has been considered. Further, it is clear in the PPG that the standards should be justified by locally specific data concerning the population of the area and the nature of new build housing and the existing housing stock (paragraphs 007 Reference ID: 56-007-20150327; and 020 Reference ID: 56-020-20150327 in particular).
64. As stated above, the imposition of the relevant standards would not pose a significant risk to the viability of development. Turning to need, the high occupancy levels in affordable housing and the disproportionate number of disabled people it accommodates justifies applying the NDSS and M4(2) standards to this tenure. The evidence presented in the Wider Bristol SHMA, November 2015, similarly justifies the M4(3) requirements of the policy (paragraphs 3.50-3.53).
65. However, with the possible exception of private renters, residents in the market sector have greater freedom to choose a property which meets their needs and so the size of individual rooms is less critical. In this context, the evidence concerning the link between living space and wellbeing is not related to any local problem. There is no evidence to suggest that the existing housing stock in South Gloucestershire is particularly small; and, while some recently built market units do not meet the NDSS, others exceed it and there is no evidence of a systemic problem (Document S2, Appendix 5).
66. Demographically, the characteristics of South Gloucestershire's population in respect of age and poor health/disability broadly reflect the national picture. However, growth in the population aged 85 years and over is expected to be higher; and there is some national-level data to suggest a shortage of existing dwellings which could be adapted to be fully accessible. These factors, together with the scale of the private rental market, might lead the Council to consider a more targeted policy of this nature in the NLP, but the evidence does not justify the universal approach in PSP37.

67. Therefore, **MM23** omits the standards for market housing. The evidence suggests that the viability of affordable schemes would not be prejudiced if the standards were to be imposed upon this tenure alone.

PSP42: Custom Build Dwellings

68. The Housing and Planning Act 2016 amended the Self-build and Custom Housebuilding Act 2015 to include a single definition of "self-build and custom housebuilding". The definition "*does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person*". This would exclude "shell homes" as referred to in paragraphs 8.46 and 8.53 of the PSPP.
69. Clause 4 of the policy would permit developers of relevant sites to provide for self or custom housebuilding either as serviced plots or shell homes on equal terms. This high level of flexibility is likely to compromise the delivery of serviced plots which would meet the definition in the Act and should, therefore, be given priority. However, the provision of shell homes is consistent with the aim of paragraph 50 of the NPPF to deliver a wide choice of homes for different groups in the community; and paragraph 8.46 of the Plan indicates that they would fulfil some of the demand on the Council's Self and Custom Housebuilding Register.
70. Therefore, notwithstanding that shell homes fall outside the relevant legal definition, they provide a warranted degree of flexibility to support the growth of this relatively new industry. Accordingly, **MM24** utilises a tiered approach to the delivery of self/custom build homes and shell homes, with both types being required ahead of developer standard product. It further includes an addition to the supporting text to ensure that the policy is sufficiently flexible to deal with individual site constraints.
71. For clarity and effectiveness, the policy title and wording should refer consistently to "self-build and custom housebuilding"; and the term 'serviced plot' should be defined by reference to the Act. **MM24** encompasses these modifications.

PSP43: Private Amenity Space Standards

72. This policy seeks to ensure that all new residential units have access to private outdoor amenity space of appropriate size and quality. It includes minimum size standards as a guide. The HSRC covered technical standards applied to dwellings, and not planning standards applying outside dwellings from the front door outwards (paragraph 14). The WMS consequently prohibits the setting of local standards relating to the construction, internal layout or performance of new dwellings (page 7). Neither precludes the setting of local standards for garden space and so, in principle, this policy is justified.
73. PSP43 has been taken into account in the relevant viability assessments, and it is sufficiently flexible to cater for individual site circumstances. Thus with an amendment to correct a cross-referencing error (**MM25**), it is sound.

PSP44: Open Space, Sport and Recreation

74. This policy seeks to protect opportunities for sport and recreation in accordance with paragraph 74 of the NPPF. The Council does not intend to depart from the approach in national policy and the more permissive criteria d) and e) have not been justified. Thus they should be deleted (**MM26**).

PSP45: Burial Facilities (Including Crematoria)

75. Having regard to paragraph 89 of the NPPF, this policy would be more restrictive upon the relevant development outside the Green Belt than within it. This is not intended and, furthermore, the Council confirmed that the policy should apply specifically to crematoria. **MM27** is required for clarity and justification.

PSP46: Oldbury New Nuclear Build

76. This policy represents the Council's ambition to lead and manage a complex and significant development in the area. This is prudent, and considerable work has been done to identify the issues likely to arise (Document E11). The "themes and issues" derived from this work will assist the scheme promoter to understand the matters for consideration. Their inclusion in the PSPP is justified and otherwise sound.
77. However, the associated "delivery objectives" are not evidence-based, and the Council has confirmed that they are intended as a starting point rather than a definite solution. On this basis, the requirement in paragraphs 3 and 4 of the policy that the objectives should be achieved/delivered is not justified. The evidence necessary to support such prescription will not be available for some time, and so the objectives should be removed.
78. The Council is concerned that to do so would undermine the work already done, but this should not be the case. The delivery objectives do indeed provide a useful starting point for consideration and, while the policy and supporting text should be amended to exclude them and related references to them, it should also be updated to clarify the process for addressing the themes and issues at the appropriate time. **MM28** sets out the necessary modifications. For clarity and effectiveness, it requires the addition of a map to identify the old and new nuclear facilities.

PSP47: Site Allocations and Safeguarding

79. This policy allocates some sites for development and safeguards others. There is greater certainty of delivery on allocated sites than safeguarded ones, but it is nevertheless necessary to reserve the latter type for particular uses. For clarity, the terms "allocated" and "safeguarded" should be defined in the plan. Moreover, PSP47 does not provide a comprehensive list of all the sites allocated/safeguarded in the PSPP, as others are included in the preceding topic-based policies. A single point of reference, in PSP47, is required to ensure that the plan is easy to understand and effective in this respect. **MM29** is necessary to address these issues.

80. Turning to specific sites, the Council has reviewed the deliverability of the sites it proposes to carry forward from the Local Plan 2006; and the safeguarding of Site No. 5 for a sports stadium would not preclude the development of extant planning permissions because these have been partially implemented. Therefore, the allocation/safeguarding of the sites within PSP47 is justified and otherwise sound. However, to realise the ambition to provide additional recreational facilities at Yate Outdoor Sports Centre, this site should be allocated in the plan. **MM29** includes this modification and the policies map should be updated accordingly.

Implementation & Monitoring

81. Section 14 of the PSPP explains that the effectiveness of the policies in the plan will be reported annually. Some policies will be monitored with indicators already in use in connection with parent policies in the Core Strategy, but additional indicators are required for others. Largely as a result of the Main Modifications set out above, **MM31** is required to ensure that a comprehensive monitoring regime is in place for the PSPP.

Public Sector Equality Duty

82. In reaching the conclusions above, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. In particular, I am mindful that the Main Modifications I have recommended to Policy PSP37 (Internal Space and Accessibility Standards for Dwellings) would reduce the number of new homes constructed to the higher M4(2) accessible and adaptable dwellings standard. However, for the reasons I have given, the evidence before me does not demonstrate that it is necessary to apply the standard to all market housing in order to meet the needs of disabled people in the area.
83. Thus my findings will not impact negatively upon disabled persons in respect of the matters addressed by Section 149 of the Act; and the PSPP as modified will accord with paragraphs 50 and 159 of the NPPF concerning the provision of an appropriate mix of housing. Further, the Plan's policies related to high quality design; residential amenity; health; transport; housing; and open space will ensure that sufficient provision is made for inclusive design and accessible environments as required by the NPPF.

Assessment of Legal Compliance

84. My examination of the compliance of the PSPP with the relevant legal requirements is summarised in the table below. I conclude that they are all met.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The PSPP has been prepared in accordance with the Council's LDS 2015-2017 (Document PP1), known as the Local Plan Delivery Programme, as revised in June 2016.
Statement of Community Involvement (SCI) and relevant regulations	The SCI (Document PP5) was adopted in January 2015. Consultation on the PSPP and the MMs has complied with its requirements.

Sustainability Appraisal (SA)	SA has been carried out and is adequate. (Documents SD4; and Sustainability Appraisal of the Main Modifications, June 2017).
Habitats Regulations Assessment (HRA)	The HRA, June 2016 (Document SD4), together with the Addendum, November 2016 (Document SD4a), concludes that the PSPP will not have a significant effect on the three N2K sites scoped into the HRA (Chew Valley Lake SPA, Avon Gorge Woodlands SAC and Severn Estuary SPA/SAC/Ramsar) either alone or in combination with other plans or projects.
National Policy	The PSPP complies with national policy except where indicated and MMs are recommended.
Planning and Compulsory Purchase 2004 Act (as amended); and 2012 Regulations.	The PSPP complies with the PCPA and the Regulations.

Overall Conclusion and Recommendation

85. The Plan has a number of deficiencies in respect of soundness as explored in the main issues set out above. Consequently, in accordance with Section 20(7A) of the PCPA, I recommend that it is not adopted as submitted.
86. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended MMs set out in the Appendix to this report, the PSPP satisfies the requirements of Section 20(5) of the PCPA and meets the criteria for soundness in the NPPF.

Louise Phillips

INSPECTOR

This report is accompanied by an Appendix containing the Main Modifications.