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### **Cheltenham Borough Plan – Examination in Public Re Site HD4 Land at Oakhurst Rise, Cheltenham**

This statement is submitted on behalf of William Morrison (Cheltenham) Limited in response to the Inspector's Matters, Issues and Questions (revised); and specifically to question 4 under **Matter 3: Housing and mixed use development** - Has sufficient regard been given to the impact of development on historic assets and their settings at the following housing allocations: HD2, HD3, HD4, HD7, HD8?

Please therefore find here and attached further information to demonstrate how sufficient regard has been given to the impact of any development on heritage assets and their settings. In fact, this information demonstrates that considerable (not just sufficient) regard has been given to this matter to the extent that the Inspector should be in no doubt about the soundness of the plan as far as the consideration of heritage assets and site HD4 is concerned.

#### **Background**

Initial (Regulation 19) representations were made in April 2018 at which time an outline planning application for 100 residential units was under consideration (please see representor ID 572 in conjunction with which this statement and attachments should be read).

In summary, our expert and detailed assessment of heritage assets and any impact upon them (or lack of) demonstrate that the submissions by Historic England (HE) to that application, as well as the current revised application (see below) were flawed. Please refer to appendices 1 to 5 to this statement which set out how and why the representations from HE to the current planning application are considered incorrect and thus cannot be relied upon. In addition to the heritage statement for the current application and further comments on heritage matters in that regard, for completeness the appendices include the comments from HE on the current application as well as our heritage expert's response to the initial ECUS report; which ECUS subsequently confirmed had been misinterpreted by CBC (see below). The report by ECUS on behalf of CBC (as part of earlier stages of the CP process) concluded that part of the site (the western part) could be developed **without any harm** whatsoever to heritage assets or their setting; and that development on the remainder of the site would need more careful consideration/assessment to determine if there might be any such harm arising from it.

The conclusion by ECUS that part of the site can be developed without any harm led CBC at the time to suggest approximately 25 units for site HD4. The way this differs greatly from earlier versions of the draft CP and the Council's own Integrated Appraisal Report accompanying the Plan (which suggest site HD4 can be allocated for 80 – 100 units) as well as the unusual and challenging timeframes associated with the receipt of the ECUS report and the subsequent reporting of the draft Cheltenham Plan to full Council, is set out in more detail in our Regulation 19 representation.

That aside the suggestion that the site should be allocated for in the region of 25 units was based on a misunderstanding of the ECUS report by CBC. ECUS subsequently clarified their position to confirm their report did not suggest there should be a number of about 25 units for site HD4 (for the western part) and did not conclude that there would be harm associated with the development of the remainder of the site; rather that further assessment would be required to ascertain if there would be any harm and if so the extent of that harm (if any).

The previous application (amended to 90 units prior to its determination) was recommended for approval by planning officers at CBC. At the planning committee meeting on 19<sup>th</sup> July 2018 the application was refused by the members of the committee for a number of reasons.

### **Current application**

The applicant carried out a very careful and thorough review of the reasons for the refusal of the previous application, alongside an assessment of the implications of the revised NPPF (rNPPF) from July 2018. It is acknowledged that the Cheltenham Plan is being assessed against the criteria within the 2012 NPPF, and the current planning application is quite rightly being assessed against the rNPPF.

The redesign of the site layout results in a scheme of 69 units, to include 40% affordable units and 9 custom/self build units; to meet the identified need for affordable and self build housing respectively as well as delivering much needed market housing for the Council, which acknowledges it is currently unable to demonstrate a five year housing land supply (5YHLS). The challenges faced by the Council by placing great reliance on large strategic allocations to meet their housing requirements were predicted by many some time ago, and set out in the Regulation 19 representation for site HD4 (and others). The foreseen set of circumstances has regrettably come about, to the extent that within less than 9 months of the adoption of a plan that was more than 10 years in the making, CBC are unable to demonstrate a five year supply of deliverable land for housing.

Whilst not necessarily directly relevant to the EiP for the CP, it is noteworthy that Tewkesbury Borough Council is also now unable to demonstrate a five year supply of housing (according to called in appeal reference 3184272). This is pertinent because it demonstrates further the significant shortcomings of the ability of the JCS to meet the immediate housing needs of the councils involved, why it cannot be relied upon to deliver the identified OAHN and hence why it is even more important for the Local Plans to allocate/provide sufficient housing to meet each authorities' own needs.

The lack of a 5YHLS for CBC has specific implications for decision taking of course, but it is relevant to the examination of the CP in that the JCS is not (and cannot for the foreseeable future) meet the identified housing needs of the Council. There is a genuine case to be made that the CP could/should be allocating more sites which are deliverable in five years to make up what is and will continue to be an identified shortfall arising from the lack of delivery of strategic allocations in the CP; albeit we note the Inspector is not due to consider omission sites unless the clear need to do so arises during the examination.

Within this context, what is abundantly clear is that in order to meet the requirements of paragraph 47 of the NPPF to '*ensure that the Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area*', it is imperative that all of the sites currently allocated for housing development are taken forward in the CP. We do not seek to ignore the importance of taking careful account of any issues related to the suggested allocations within the CP. In the wider circumstances outlined however it is imperative for the plan to be progressed positively as far as the current suggested allocations are concerned; particularly given that site HD4 is demonstrated to be suitable, available, achievable and deliverable, and nothing associated with site HD4 as a suggested allocation would make the plan unsound as it is.

As part of the current planning application further specific consideration of heritage matters has taken place. As advised by the programme officer we have not provided copies of all the assessments, reports, documents and correspondence associated with heritage matters for site HD4 and the planning applications that have been submitted for it. Instead I have provided a select number of those documents and correspondence (appendices 1 – 5), along with a summary here of the salient points for assistance:

- A heritage assessment (for the first planning application for 100 units) confirmed, in line with ECUS, that part of the site (the western part) can be developed without any harm heritage assets, and concluded that any impact on heritage assets from the development of the rest of the site would be less than substantial
- HEs comments on the first application objected to the development in principle due to their view that the development would harm the setting of heritage assets, albeit that harm was also considered by HE to be less than substantial. Our heritage consultants considered HEs comments flawed for a number of reasons, as set out in the attached appendices. In summary though, they considered that HEs opinion on the architectural references for the building in question, its design, siting and orientation, were incorrect. In addition, HE made incorrect references to the NPPF and its requirements (something HE have not since corrected) and despite acknowledging that the task of weighing any harm against the public benefits of the proposal is for the LPA, HE offer quite significant comment on the balancing exercise between any harm and the public benefits – they refer to this 5 times in their comments on the initial application and once (purely with reference to the relevant paragraph of the NPPF) in their comments on the current application
- Further rebuttals to comments on the proposal, and responses to those rebuttals have been provided throughout the process. In essence there is a clear and strong difference of opinion between the parties about how the building in question was designed and laid out (with reference to its planned and even its

unplanned grounds and setting) in the first place, along with if there is any harm on the setting of the heritage asset, and if so the extent of that harm

- Our heritage consultant is adamant that HE is wrong about the inspiration for and design principles surrounding the heritage asset concerned, and as a result of their 'starting point' being flawed, the remainder of their comments from there are unsound and cannot be relied upon

It is correct that any impacts which might be associated with the development subject to the planning application for site HD4 have been considered in great detail. The decision taking process is the right forum for this level of detail. It is not for the local plan process, and indeed it is simply not possible in that regard, to go into the fine detail necessary to consider and determine all the issues at hand, particularly when the balancing exercise between any harm and the public benefits also comes into the equation.

Thankfully in this instance there is a planning application running alongside the local plan process, which provides the perfect opportunity for these detailed issues to be teased out.

As CBC have consistently maintained, it is not for the CP to consider in minute detail how site HD4 (or any site for that matter) should be designed/laid out or how many units it may ultimately provide. Those detailed considerations should quite rightly be left for very careful assessment as part of the planning application process, just as they are being in this case for the current outline planning application.

What is certain is that the suggested allocation of site HD4 is sound, and doing so would not be harmful to the significance of heritage assets. Approximately 25 dwellings can be delivered on site HD4 without any harm. This is not to be a limit to housing numbers, and in order to make the most effective use of land and achieve more units across the site as a whole, site HD4 can and should be allocated for a greater number of units (60 – 100), with the planning application process being the right mechanism for determining the exact number and arrangement of those units.

### **Other matters**

Whilst it may not be for the local plan examination process to consider the fine detail of all the issues associated with any proposed development, it may assist the Inspector to know that ALL the technical matters related to the current application have been covered in detail as follows:

- There is no adverse impact on highway safety and the highway authority have no objection
- There is no adverse impact on protected species or other ecological considerations. The county ecologist has no objection and Natural England have no objection subject to condition – in line with the statement of common ground associated with the CP
- Protected and veteran trees have been fully considered and there is no objection from the Council's tree officer. There is no loss or deterioration of ancient or veteran trees and more than 170 new trees will be planted
- The county archaeologist has no objection
- Historic England (HE) have objected to the application. As set out in this statement and the attachments, as well as the Regulation 19 representation, it is our heritage consultants firm view that HE's approach to the assessment of this

site has been flawed from the outset and cannot therefore be relied upon. Moreover, the many and significant public benefits associated with the proposed development certainly outweigh any harm which might exist

- In landscape and visual terms, there is no harm to the setting of AONB (the site is in the principle urban area) and the council do not object to the application in landscape terms
- Sport England have no objection. In fact, the school have confirmed in writing that the site is non-essential to its educational and recreational requirements. Anything for which the site might very occasionally be used can be comfortably accommodated elsewhere on their land (some 35 hectares). Please see appendix 6 for a letter from the school confirming these facts, along with a copy of a statement by the school submitted to the planning application. **Please note:** The letter and comments from the school may also be of relevance to Matter 4: Green Belt and Green Infrastructure, if indeed the Inspector is intending to consider site HD4 in this regard given that it is not allocated for green space and is allocated for housing
- The site is in flood zone 1 (lowest risk of flooding), does not flood and a detailed assessment of surface water has confirmed there will be a betterment for surface water runoff. The County Council as Lead Local Flood Authority (LLFA) support the approach and have no objection

## Summary

We continue to support the allocation of site HD4 and confirm there is no reason whatsoever as to why the plan could or should be considered unsound if site HD4 is allocated for residential as proposed.

As far as the setting of heritage assets is concerned there is a difference of opinion between the relevant heritage experts. Professor Timothy Mowl and Dr Carole Fry are eminent experts in this specific period and type of architecture and their opinion can be safely relied upon. That aside, the Inspector can be assured that, for the purposes of the local plan and its examination there is no obstacle to the allocation of the site as far as heritage assets are concerned.

Approximately 25 units can be delivered without any harm. In order to make the most efficient use of land though as required, site HD4 could and should be allocated for a greater number of units (60 – 100), with the precise layout and arrangement of those units to be left for careful and proper determination through the planning application process. In that regard, the current planning application demonstrates that the site is suitable, available, achievable and deliverable in the very near future; and that if any harm to heritage assets does arise as a result of the development, this is less than substantial and is anyway far outweighed by the many public benefits associated with the development.