

## **APPLICATION FOR PLANNING PERMISSION FOR UP TO 25 DWELLINGS**

# **PLANNING STATEMENT (INC. AFFORDABLE HOUSING STATEMENT AND DRAFT HEADS OF TERMS)**

## **LAND OFF KIDNAPPERS LANE, LECKHAMPTON, CHELTENHAM**

### **ON BEHALF OF ROBERT HITCHINS LTD. AND ITS SUCCESSORS IN TITLE TO THE LAND**

**TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)  
PLANNING AND COMPULSORY PURCHASE ACT 2004**

**Prepared by: Pegasus Group**

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## 1. INTRODUCTION

1.1 This Planning Statement has been prepared by Pegasus Group on behalf of Robert Hitchins Limited and its successors in title to the land, in support of proposals for outline planning permission for a residential development on land off Kidnappers Lane, Leckhampton, Cheltenham. The development comprises the following:

- Up to 25 dwellings, with a total site area of approximately 1.3 hectares;
- Associated infrastructure and landscaping;
- Vehicular and pedestrian accesses from Kidnappers Lane;

1.2 All matters of detail are reserved for subsequent approval, as such the determination is limited to matters of principle.

1.3 This Planning Statement provides an overview of the decision-making context including the National Planning Policy Framework (July 2018), the National Planning Practice Guidance, the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (December 2017) and the emerging Cheltenham Borough Local Plan.

1.4 This Statement takes the following form:

- Section 2 describes the Application Site and the surrounding area;
- Section 3 provides a summary of the planning history of the site
- Section 4 sets out the application proposals
- Section 5 describes the relevant national and local planning policy
- Section 6 comprises the Affordable Housing Statement
- Section 7 discusses the planning merits of the proposal
- Section 8 provides the overall conclusions

1.5 The application is accompanied by a number of supporting documents which are to be read alongside this planning statement. A Sustainability Checklist has been completed.

1.6 The proposed development falls below the applicable thresholds set out within Schedule 2 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 of 150 dwellings or a site area which exceeds

5 hectares. Accordingly, the proposals are not considered to constitute EIA development.



## 2. APPLICATION SITE AND SURROUNDINGS

- 2.1 The proposed development site comprises 1.3 hectares of former market garden land to north of Kidnappers Lane, in the Leckhampton area of Cheltenham Borough approximately 2.0km to the south west of the Leckhampton District Centre with the commercial and retail centre of Cheltenham town a short distance further.
- 2.2 Although within the administrative area of Cheltenham Borough Council, the boundary of Tewkesbury Borough Council site lies within 400m of the western edge of the site.
- 2.3 The application site is an irregular shaped area of flat land that was formerly a commercial plant nursery (there are some remnants of the nursery still evident on site i.e. the hardstanding). It is bounded by established hedgerows on its western and southern boundaries with an open field boundary to the north abutting agricultural land beyond. To the eastern boundary is an adjacent plant nursery complex that contains a number of horticultural structures.
- 2.4 Access to the site is gained directly from Kidnappers Lane to the south which in turn provides access to the principal county highway of the A46 Shurdington Road to the north and the associated services and facilities of the local areas of Up Hatherley and Warden Hill. A Transport Statement has been prepared to support the application.
- 2.5 There are no statutory designations within the Application Site, with the site lying outside of both the Cotswold Area of Outstanding Natural Beauty and the Green Belt and wholly within Flood Zone 1, the least risk area of flood risk probability.
- 2.6 In addition the Application Site does not contain any heritage assets with the nearest listed building being the Grade II Listed Olde England property approximately 120m to the south, on the far side of Kidnappers Lane.
- 2.7 The site is located on the north western edge of Cheltenham with the town identified, along with the City of Gloucester, in the adopted Gloucester – Cheltenham- Tewkesbury Joint Core Strategy (JCS) as a Key Urban Area within the County. As one of the highest order settlements in the County, Cheltenham possesses a vast array of services, facilities and employment opportunities which when combined with the existing access to public transport and links to

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surrounding settlements, including Gloucester and Stroud, has the ability to support sustainable patterns of living in Gloucestershire.

2.8 The Application Site boundary and context is identified at Appendix 1.

#### **APPENDIX 1: SITE LOCATION PLAN**

2.9 There are no significant flooding or drainage issues that would prevent the development of the site. Therefore, in terms of flooding and drainage the site is considered to be a sustainable location for development.

2.10 Local infrastructure for all standard services including water, gas, electricity, telecommunications and surface and foul water drainage are all present either within or adjacent to the site. It is proposed that the new development will be served by these existing services subject to any necessary reinforcement identified at the detailed design stage and to the details contained within the statements submitted in support of this application.

### 3. PLANNING HISTORY OF THE APPLICATION SITE

- 3.1 The application site formed part of a wider development proposal submitted to Cheltenham Borough Council in September 2013 under reference 13/01605/OUT on behalf of Bovis Homes Limited and Miller Homes Limited. Residential development of up to 650 dwellings was proposed together with a mixed use local centre etc.
- 3.2 Despite an Officer Recommendation of 'Permit Subject to S106' application 13/01605/OUT was subsequently refused by the Council on the 31<sup>st</sup> July 2014 primarily on the grounds of prematurity pending the finalisation of the Joint Core Strategy. The application 13/01605/OUT was the subject of an appeal which was recovered on 18 February 2015, for determination by the Secretary of State.
- 3.3 The Inspector recommended that the appeal be dismissed and planning permission refused. The Secretary of State agreed with the Inspector's recommendations, a decision was issued on 5th May 2016.
- 3.4 The applicants sought to challenge the Secretary of State's decision in the High Court, but were refused leave to do so.
- 3.5 However, it is highlighted that whilst the original site application boundary (recommended by officers to permit) refused by Cheltenham Borough Council in their determination of application 13/01605/OUT included the land off Kidnappers Lane, the amended site application boundary considered on Appeal omitted this site. The current site did not therefore form part of the Appeal. The land off Kidnappers Lane has been promoted separately from the Bovis/Miller site.
- 3.6 It is considered that Land at Kidnappers Lane, (which is not located adjacent to the AONB and neither is it located in a sensitive landscape location); is a sustainable site. Furthermore Land at Kidnappers Lane is well related to frequent bus services along the A46 into Cheltenham and will be in walking distance of the proposed new secondary school and other existing facilities and services.
- 3.7 There are no statutory designations within the site, with the site lying outside of both the Cotswold Area of Outstanding Natural Beauty and the Green Belt and wholly within Flood Zone 1, the lowest area of flood risk probability.

3.8 In addition the site does not contain any heritage assets with the nearest listed building being the Grade II Listed Olde England property approximately 120m to the south, on the far side of Kidnappers Lane.

3.9 It is within this context that an application was submitted to the Council on 3rd February 2016 (ref 16/00202/OUT) providing an opportunity to deliver housing at a sustainable location consistent with the emerging Spatial Strategy within the JCS. (The area was located within the area originally proposed in the Strategic Allocation A6 for residential development in the Draft JCS).

3.10 This application relates to the same site included in planning application 16.00202/OUT.

3.11 The Inspector for the JCS in her Interim Report in May 2016 paragraph 120 stated in respect of the proposed Strategic Allocation A6 that:

**"I note that the Cheltenham Assessment of land availability states "In general, a site is considered unsuitable where it is assessed as being of 'high' landscape sensitivity." On this basis, a large part of the site would be unsuitable for built development and, in my judgement, the extent of the proposed development should be significantly reduced""**

3.12 Paragraph 123 states that:

**"Overall, in my judgement, a limited amount of development could be supported towards the north of the site where public transport is more accessible, subject to the avoidance of land of high landscape and visual sensitivity. Therefore, for reasons of landscape/visual amenity and highway impacts, I recommend that the Cheltenham part of the site be allocated for a modest level of built development in the order of 200 dwellings."**

3.13 In her final report in October 2017 the Inspector indicated at paragraph 185 that:

**"The strategic allocations at North Churchdown (A4) and Leckhampton (A6) are unsound. However, a reduced local allocation could be made at Leckhampton in the forthcoming Cheltenham Local Plan, which should also designate Local Green Space within this area. Whilst I previously commented that an allocation in the order of 200 dwellings at Leckhampton might be reasonable, this was only an approximation and intended to indicate a scale below the strategic threshold for the JCS. The final figures should be based on a full assessment of the area**

**to provide the evidence base to underpin an appropriate allocation."**

- 3.14 In the evidence base of the Local Plan Review, the Housing and Mixed-Use Topic Paper (January 2018) Appendix A provides the Council's response to the Kidnappers Lane site (ref S033a page 40), but it refers to the wider strategic allocation that was proposed in the JCS, and states that "*JCS Inspector has suggested removing from the JCS and allocating through the Cheltenham Plan for 200 dwellings only*".
- 3.15 However, as referred to above the Inspector's Final Report gives support to a non-strategic allocation at Leckhampton in the order of (but not limited to) 200 dwellings indicating that Leckhampton is a suitable and sustainable location for additional dwellings. It is clear that the Inspector did not indicate a precise figure as the location, and the quantum being less than a strategic allocation could be determined through the Cheltenham Borough Local Plan. This application is not included in the non-strategic allocation now included in the submitted Cheltenham Borough Local Plan.
- 3.16 The proposed allocation in the emerging Cheltenham Local Plan is for "approximately 250 dwellings". The reference to approximately is consistent with the fact that the overall housing requirement in the JCS is "at least", allowing for some flexibility in the provision of housing. Since the JCS the Council have also identified the location of a new secondary school as part of the local plan allocation which further supports the sustainability credentials of the site. It is noted that the SA states at paragraph 6.25 that the identification of the secondary school site has had the effect of reducing the proposed allocation from 330 dwellings to 200-250 dwellings. In which case the site at Kidnappers Lane could make up the shortfall in this sustainable location.
- 3.17 It should also be noted that the Housing and Mixed Use Topic Paper at Appendix A referred to the Kidnappers Lane site under reference S033c and referenced the planning application (16/00202/OUT) and stated that the application was refused and would be the subject of an inquiry in December 2017. The inquiry actually took place in February 2018. The report incorrectly states that the Inspector for the JCS "recommended that this area should remain undeveloped".
- 3.18 There was much debate at the JCS Examination about the extent of any Local Green Space (LGS) in this area. The JCS Inspector recommended the removal of

the strategic allocation at Leckhampton, she concluded in EXAM 232 paragraph 174 that the LGS could be made either in the emerging Cheltenham Borough Plan or the Neighbourhood Plan. Consequently, the JCS Inspector did not recommend any indicative areas for the LGS.

- 3.19 We previously objected to the extent of the LGS which we considered did not satisfy the guidance in the PPG in terms of proposing areas for LGS, as it should not be proposed as a "blanket designation." The PPG below is quite clear in respect of the role and function of any areas proposed as LGS. Neither did the Parish Council support the LGS area including the former nursery site. Neither was the site considered to be of High Landscape Sensitivity in the JCS EXAM EBLO 106. In both Option 1 and Option 2 the site is within the area identified for residential development.
- 3.20 The Council have now clarified the extent of the allocation for 250 dwellings and Policy MD5 now includes land for a proposed secondary school and the extent of the LGS has also been clarified, insofar as it does not extend over the former Plant Nursery site. However, the Plan fails to recognise the development potential of the former nursery area and include it in the policy.
- 3.21 Land at Kidnappers Lane is not within an area of high landscape sensitivity as defined in the JCS evidence base (EBLO 106). The site is suitably located as acknowledged recently at the appeal as the Council "dropped" their reason for refusal no.1 (i.e.. that the principle of development was unacceptable, could not be substantiated), and by the fact that the Council proposes to allocate land in the immediate vicinity in Leckhampton Fields. It is considered that development on the site would be generally consistent with the approach taken by Inspector Ord into her examination of the JCS. As reported above in her Interim Report she indicated that some residential development is justified on the Cheltenham part of the site, but not on those areas that have landscape and visual sensitivity (land at Kidnappers Lane is not within an area of high landscape and visual sensitivity).
- 3.22 It remains a sound planning objective to make efficient and effective use of land particularly on land which has been developed in the past. Through the JCS and emerging Cheltenham Local Plan process it has been accepted that areas of countryside will need to be lost to meet the development needs of Cheltenham, including undeveloped greenfield sites and even land in the Green Belt. By contrast land at Kidnappers Lane is not Green Belt and it is not protected by any other designations. It is in one of the only areas of Cheltenham beyond the PUA

that is not constrained by Green Belt or AONB. (It should be noted that the PUA boundary has not been updated to accord with the JCS review). Indeed, it is in an area where the Local Plan is proposing to allocate circa 250 dwellings along with a new secondary school. By its very nature it is a sustainable location well related to facilities and services.

3.23 The site was the subject of an application for up to 45 dwellings (Ref 16/00202/OUT, dated 4 February 2016), this was refused and was the subject of an appeal (Appeal Ref: APP/B1605/W/17/3178952 at land off Kidnappers Lane, Cheltenham). The appeal was dismissed on 4<sup>th</sup> April 2018.

3.24 The main issues at the appeal were:

**“the effect of the proposal on the character and appearance of the area with particular regard to landscape and visual impact; and**

**Whether there are any other material considerations which would justify the development being determined other than in accordance with the development plan.”**

3.25 The Inspector whilst acknowledging the benefits of the proposal i.e. including the number of dwellings and the contribution towards housing land supply, the amount of affordable housing, some moderate increase in economic activity as result of the proposed development and that there would be benefits associated with the improvements to biodiversity, green infrastructure, street lighting and footpaths, he nevertheless concluded that these benefits would not outweigh the harm identified to the character and appearance of the area “by way of the introduction of suburban built form that is unsympathetic to the prevailing semi-rural character of the area”.

3.26 At the recent appeal, the landscape witness for Robert Hitchins Limited explained that there are no landscape and visual reasons why this appeal should be dismissed. He noted that the development will not remove or harm attributes and features which make a significant contribution to the character, distinctiveness, quality and amenity value of the site or its adjoining landscape. He also explained that careful mitigation will conserve visual amenity so that the proposals are fully compliant with the aims of the local plan and emerging policies which seek to protect landscape character. His conclusion stated that in landscape terms, the appeal site is appropriate for a development that is contained to the degraded site. In an area where Green Belt designation restricts land supply for new homes, he considers it desirable and logical to develop poor quality, low

sensitivity land in order to protect the greater sensitivity landscape of the adjoining Cotswolds AONB.

- 3.27 Traffic and transport matters were not contested by the LPA at the recent appeal. It has been demonstrated by the highway witness for Robert Hitchins at the appeal that the proposed access arrangements would be safe and suitable and the opportunities for sustainable modes of travel have been taken up. He also demonstrated that any increase in traffic flows as a result of the new development will not exacerbate conditions on the existing roadwork to an unacceptable degree and they will not have a “severe” impact for the purposes of NPPF paragraph 109.
- 3.28 The revised application proposals are now put forward which seek to address the reasons why the appeal was dismissed. For example, the number of dwellings proposed has been reduced from 45 to 25 dwellings, the layout has been amended to reflect a less suburban form, and additional landscaping has been introduced to mitigate harm to the landscape character.



#### **4. APPLICATION PROPOSALS AND PRE-APPLICATION DISCUSSIONS**

- 4.1 This application seeks outline planning permission for a development comprising up to 25 dwellings, associated infrastructure and landscaping, with vehicular and pedestrian accesses from Kidnappers Lane.
- 4.2 Whilst the application is submitted in outline an Illustrative Masterplan is provided to demonstrate how the site can deliver the scale of development proposed. The Illustrative Masterplan, attached at Appendix 2, shows how the development might be laid out to respond to constraints and opportunities on the site, including those identified in the technical reports submitted as part of the planning application.

#### **APPENDIX 2 – ILLUSTRATIVE MASTERPLAN**

- 4.3 A proportion of the proposed dwellings will be provided as affordable units, with the remaining units provided as open market dwellings. The Affordable Housing Statement is included at Section 6.
- 4.4 The site is able to contribute to the Council's five-year housing land supply (including the provision of affordable housing) in a timely manner, this is a significant material consideration in the determination of this application as set out in greater detail in Section 7.
- 4.5 A more detailed description of development and the justification for the design concept that has been followed is set out in the Design and Access Statement accompanying this application.
- 4.6 Pre-application public consultation has been undertaken with the distribution of a consultation leaflet to approximately 3,500 homes in the Leckhampton area. In addition, a dedicated webpage was set up to provide an opportunity to obtain further information on the proposal as well as submit comments online.
- 4.7 Further details of the public consultation and the comments made that have informed the proposals are contained in the Statement of Community Engagement that accompanies the application.

## 5. RELEVANT PLANNING POLICY

### National Planning Policy

- 5.1 The **National Planning Policy Framework (NPPF)** was published and came into immediate effect on 24th July 2018 and sets out a *"presumption in favour of sustainable development that is the basis for every plan and decision"*.
- 5.2 For those plans submitted on or before the 24<sup>th</sup> January 2019 the policies of the previous NPPF apply for the purposes of examining the plans.
- 5.3 The Housing Delivery Test will apply from the day following the publication of the Housing Delivery Test results in November 2018.
- 5.4 Paragraph 8 identifies three objectives to sustainable development which are economic, social and environmental. Paragraph 8 continues to state that these objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across different objectives). Therefore, to achieve sustainable development, the NPPF recognises that economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
- 5.5 Paragraph 10 sets out that at the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 continues to state that for decision-taking this means (unless material considerations indicate otherwise):

**"c) approving development proposals that accord with an up to date development plan without delay; or**

**d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>1</sup>, granting permission unless:**

**i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>2</sup>; or**

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<sup>1</sup> This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years. Transitional arrangements for the Housing Delivery Test are set out in Annex 1

<sup>2</sup> The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding

**ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”**

5.6 Section 3 of the NPPF “Plan Making” paragraph 23 states that:

**“Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or non-strategic policies).”**

5.7 Section 4 of the NPPF “Decision Making” paragraph 38 states:

**“Decision-makers at every level should seek to approve applications for sustainable development where possible.”**

5.8 Section 5 of the NPPF ‘Delivering a sufficient supply of homes’, sets out the need to significantly boost the supply of housing.

5.9 Paragraph 59 states:

**“To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”**

5.10 Paragraph 61 states that:

**“Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies ...”**

5.11 Paragraph 62 states that:

**“Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required<sup>3</sup>, and expect it to be met on-site**

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Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change

<sup>3</sup> Applying the definition in Annex 2 to this Framework.

unless:

- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
- b) the agreed approach contributes to the objective of creating mixed and balanced communities.”

5.12 In order to support the Government’s objective, paragraph 73 states that:

**“...Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of:**

**a) 5% to ensure choice and competition in the market for land; or**

**b)10% where the local planning authority wishes to demonstrate a five year supply of deliverable sites through an annual position statement or recently adopted plan, to account for any fluctuations in the market during that year; or**

**c) 20% where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.”**

5.13 Paragraph 74 goes on to state:

**“A five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:**

**a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and**

**b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.”**

5.14 Section 9 (Promoting sustainable transport) recognises that transport policies have an important role to play in facilitating sustainable development. Paragraph 103 advises that whilst the transport system needs to be balanced in favour of sustainable transport modes the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

- 5.15 Paragraph 108 identifies that the opportunities for sustainable transport, safe and suitable access and improvements to the transport network should be considered where development could generate a significant amount of traffic. Paragraph 109 identifies that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development on the road network would be “severe”.
- 5.16 The accompanying Transport Statement explains that the additional demand arising from the proposed development can be safely and satisfactorily accommodated on the local transport network.
- 5.17 Section 12 “Achieving well designed places” states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 states that:
- “Planning policies and decisions should ensure that developments:**
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;**
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;**
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);**
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;**
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and**
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”**
- 5.18 Full details of the design and design rationale for the proposal are provided in the Design and Access Statement.

5.19 Section 15 “Conserving and enhancing the natural environment” states that planning policies and decisions should contribute to and enhance the natural environment by:

**“a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);**

**b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;**

**c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;**

**d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;**

**e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and**

**f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”**

5.20 The accompanying Landscape and Visual Assessment addresses these guidance in the NPPF and the development plan.

5.21 Overall, the Proposed Development is consistent with the objectives of the NPPF and provides for sustainable development contributing to the three objectives of sustainable development and increases the supply of housing at Cheltenham. It is acknowledged that until the PUA boundary of Cheltenham is updated that the site is outside the PUA of Cheltenham and therefore the site is not in accordance with Policy SD10.

5.22 However, it should be noted that there is a presumption in favour of sustainable development and furthermore arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances set out in paragraph 49 of the NPPF 2018, where both:

**"a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and**

**b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area."**

- 5.23 It is considered that the development of 25 dwellings is not substantial, neither would its cumulative effects be so significant that if it was granted planning permission it would undermine the Local Plan, particularly when land in the vicinity is allocated in the emerging Local Plan for approximately 250 dwellings and a secondary school.
- 5.24 Annex 1 deals with implementation of the new NPPF (paragraph 212) stating that the policies in the Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Paragraph 213 states that existing policies should not be considered out of date because they were adopted or made prior to the publication of the NPPF. Due weight should be given to policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 5.25 Paragraph 216 clarifies that plans, such as the Cheltenham Plan which was submitted for examination on 3<sup>rd</sup> October 2018 will be examined under the policies of the previous NPPF.
- 5.26 Annex 1 of the NPPF when it was produced in July 2018 stated that at paragraph 215, that the Government's intention was to published the Housing Delivery Test results in November 2018, this has not been achieved. However, the data has been published and so the Housing Delivery Test can be applied.

### **National Planning Practice Guidance**

- 5.27 The NPPG was launched on the 6<sup>th</sup> March 2014 by the Department for Communities and Local Government (DCLG) having been in draft 'Beta' format since 28<sup>th</sup> August 2013. It followed a review of planning policy guidance undertaken by Lord Taylor of Goss Moor which began in October 2012 and replaced a raft of old guidance.

- 5.28 The guidance sits alongside the NPPF as part of the reforms to the planning system, by Government, to make it simpler and easier to shape and influence planning and development across the country. The web-based format allows the ability for MHCLG to periodically update the Guidance electronically, and for the avoidance of doubt, where this Statement relies upon the advice, reference is drawn to the date the relevant guidance was published.
- 5.29 Following the publication of the new NPPF in July 2018 a number of sections of the PPG have been revised in September 2018. The new sections of the PPG published in July 2018 to support the new NPPF cover viability in plan making and decision taking. It also provides new guidance on five-year land supply, the need for authorities to produce an annual position statement on five year land supply, the Housing Delivery Test and Local Housing Needs Assessment.
- 5.30 The relevant sections of guidance in the NPPG to the application are set out in turn below.

*Design*

- 5.31 **Paragraph 001**<sup>4</sup> sets out that good quality design is an integral part of sustainable development. Achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations. Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term.
- 5.32 Good design is integral to the development proposals in order to create a high-quality place for future residents that also integrates and complements existing communities. The Design and Access Statement seeks to ensure good quality design at the site.

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<sup>4</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 26-001-20140306, Revision Date 6.3.14



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*Planning Obligations*

5.33 **Paragraph 001**<sup>5</sup> explains how planning obligations are used to mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests that they are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind. **Paragraph 006**<sup>6</sup> indicates that obligations should take into account specific site circumstances and **Paragraph 007**<sup>7</sup> sets out that policy for seeking obligations should be grounded in an understanding of development viability through the plan making process. On individual schemes, applicants should submit evidence on scheme viability where obligations are under consideration.

*Viability*

5.34 **The PPG on Viability was updated on 24<sup>th</sup> July 2018.**

5.35 **Paragraph 002** states that the role of viability assessment is primarily at the plan making stage.

5.36 **Paragraph 007** indicates *"Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage."*

5.37 **Paragraph 008** states that: *"Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then."*

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<sup>5</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 23b-001-20161116, Revision Date 16.11.16

<sup>6</sup> Planning Practice Guidance, Paragraph: 006 Reference ID: 23b-006-20140306, Revision Date 6.3.14

<sup>7</sup> Planning Practice Guidance, Paragraph: 007 Reference ID: 23b-007-20150326, Revision Date 26.3.15

5.38 Additional guidance was provided on Neighbourhood Plans and plan making, local plans, housing and economic land availability assessment and housing need assessment on 13<sup>th</sup> September 2019.

### **The Development Plan**

5.39 Section 38(6) of the 2004 Planning and Compulsory Purchase Act requires planning applications to be determined in accordance with the relevant policies of the adopted Development Plan, unless material considerations indicate otherwise.

5.40 The Development Plan consists of the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (December 2017), and the saved policies of the Cheltenham Borough Plan (2006), it should be noted that the Cheltenham Borough Plan predates the NPPF. The emerging Cheltenham Borough Plan Pre-Submission (February 2018) which reviews those policies of the Cheltenham Borough Plan that have not been superseded by the JCS is a material consideration (to which only limited weight can be attached). (The retail policies are to be the subject of the Joint Core Strategy Review).

5.41 Paragraph 11 of the NPPF states that:

**“For decision-taking this means:**

- c) approving development proposals that accord with an up-to-date development plan without delay; or**
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or**
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”****

5.42 The quantum and strategy for development in the adopted Cheltenham Borough Local Plan 2006 has been replaced by the JCS.

5.43 The JCS affordable housing policy, seeks a minimum of 40% affordable housing on sites of 11 or more dwellings outside the strategic allocations. This planning application is submitted on the basis of a policy compliant level of affordable

housing in order to comply with the JCS Affordable Housing Policy. The matter is discussed further in Section 6, the Affordable Housing Statement.

### **Local Planning Policy**

#### **Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (adopted December 2017)**

- 5.44 The Joint Core Strategy (JCS) was adopted by all three Councils, Cheltenham being the last on 11<sup>th</sup> December 2017.
- 5.45 The JCS sets out the long-term vision and objectives for the area together with strategic policies for shaping new development and locations for new development up to 2031. Together these policies help to provide a strategic planning framework for the JCS area, which guides future planning and decisions and helps to achieve the overall vision for the area.
- 5.46 Whilst the JCS provides the higher level or strategic part of the development plan for the area, more detailed, locally specific planning policies are to be set out in the respective local plans i.e. Cheltenham Borough Plan.
- 5.47 **Policy SP1: The Need for New Development** - the policy makes provision for 35,175 new homes in the JCS to be delivered by development within existing urban areas through District Plans, existing commitments and urban extensions to Cheltenham and Gloucester. Policy SP1 sets out the housing requirement for each authority:

**“Cheltenham at least 10,917 new homes;”**

- 5.48 Policy SP2 provides the spatial strategy for how new development will be distributed and delivered across the JCS area. Development is focussed at Cheltenham and Gloucester, including urban extensions in order to support their economic roles as the principal providers of jobs, services and housing. Whilst the JCS provides the strategic level part of the development plan, *“there is a significant role for delivery at the non-strategic level through both the district and neighbourhood plans.”*
- 5.49 **Policy SP2: Distribution of New Development –**

**“...3. To meet the needs of Cheltenham Borough the JCS will make provision for at least 10,996 new homes. This will be provided within the Cheltenham Borough**

**administrative boundary and cross boundary urban extensions at North West Cheltenham and West Cheltenham (both of which are partly within Tewkesbury Borough) defined in Policy SA1, and commitments covered by any Memoranda of Agreement...”**

5.50 **Policy SD3: Sustainable Design and Construction** – sustainable design and construction seeks to use resources efficiently and decrease waste both during the construction, use and decommissioning phases of development schemes.

**“1. Development proposals will demonstrate how they contribute to the aims of sustainability by increasing energy efficiency, minimising waste and avoiding the unnecessary pollution of air, harm to the water environment, and contamination of land or interference in other natural systems. In doing so, proposals (including changes to existing buildings) will be expected to achieve national standards**

**2. All development will be expected to be adaptable to climate change in respect of the design, layout, siting, orientation and function of both buildings and associated external spaces. Proposals must demonstrate that development is designed to use water efficiently, will not adversely affect water quality, and will not hinder the ability of a water body to meet the requirements of the Water Framework Directive;**

**3. All development will be expected to incorporate the principles of waste minimisation and re-use. Planning applications for major development must be accompanied by a waste minimisation statement, which demonstrates how any waste arising during the demolition, construction and subsequent occupation of the development will be minimised and sustainably managed**

**4. To avoid unnecessary sterilisation of identified mineral resources, prior extraction should be undertaken where it is practical, taking into account environmental acceptability and economic viability relating both to extraction of the mineral(s) and subsequent implementation of the non-minerals development of the site**

**5. Major planning applications must be submitted with an Energy Statement that clearly indicates the methods used to calculate predicted annual energy demand and associated annual Carbon Dioxide (CO<sub>2</sub>) emissions.**

**This policy contributes towards achieving Objectives 5, 6 and 9.”**

5.51 **Policy SD4: Design Requirements** – The NPPF states that *“the Government attaches great importance to the design of the built environment”*

5.52 Development at any scale and location:-

**“Where appropriate, proposals for development - which may be required to be accompanied by a masterplan and design brief - will need to clearly demonstrate how the following principles have been incorporated:**

**i. Context, Character and Sense of Place;**

**New development should respond positively to, and respect the character of, the site and its surroundings, enhancing local distinctiveness, and addressing the urban structure and grain of the locality in terms of street pattern, layout, mass and form. It should be of a scale, type, density and materials appropriate to the site and its setting. Design should establish a strong sense of place using streetscapes and buildings to create attractive and comfortable places to live, and having appropriate regard to the historic environment**

**ii. Legibility and Identity;**

**New development should create clear and logical layouts that create and contribute to a strong and distinctive identity and which are easy to understand and navigate. This should be achieved through a well-structured and defined public realm, with a clear relationship between uses, buildings, routes and spaces, and through the appropriate use of vistas, landmarks and focal points.**

**iii. Amenity and space;**

**New development should enhance comfort, convenience and enjoyment through assessment of the opportunities for light, privacy and external space, and the avoidance or mitigation of potential disturbances, including visual intrusion, noise, smell and pollution.**

**iv. Public realm and landscape;**

**New development should ensure that the design of landscaped areas, open space and public realm are of high quality, provide a clear structure and constitute an integral and cohesive element within the design. The contribution of public realm designs, at all scales, to facilitate the preferential use of sustainable transport modes should be maximised.**

**v. Safety and security;**

**New development should be designed to contribute to safe communities including reducing the risk of fire, conflicts between traffic and cyclists or pedestrians, and the likelihood and fear of crime.**

**vi. Inclusiveness and adaptability;**

**New development should provide access for all potential users, including people with disabilities, to buildings, spaces and the transport network, to ensure the highest standards of inclusive design. Development should also**

be designed to be adaptable to changing economic, social and environmental requirements.

**vii. Movement and connectivity;**

New development should be designed to integrate, where appropriate, with existing development, and prioritise movement by sustainable transport modes, both through the application of legible connections to the wider movement network, and assessment of the hierarchy of transport modes set out in Table SD4a below. It should:

- Be well integrated with the movement network within and beyond the development itself
- Provide safe and legible connections to the existing walking, cycling and public transport networks;
- Ensure accessibility to local services for pedestrians and cyclists and those using public transport
- Ensure links to green infrastructure;
- Incorporate, where feasible, facilities for charging plug-in and other ultra-low emission vehicles;
- Be fully consistent with guidance, including that relating to parking provision, set out in the Manual for Gloucestershire Streets and other relevant guidance documents in force at the time.

2. Detailed requirements of masterplans and design briefs, should the Local Planning Authority consider they are required to accompany proposals, are set out in Table SD4d. These requirements are not exhaustive.

**This policy contributes towards achieving Objectives 4, 5, 6, 7, 8 and 9.”**

5.53 **Policy SD6: Landscape** – landscape proposals for new development should be appropriate to the landscape character of the locality and contribute to local distinctiveness.

**“1. Development will seek to protect landscape character for its own intrinsic beauty and for its benefit to economic, environmental and social well-being;**

**2. Proposals will have regard to the local distinctiveness and historic character of the different landscapes in the JCS area, drawing, as appropriate, upon existing Landscape Character Assessments and the Landscape Character and Sensitivity Analysis. They will be required to demonstrate how the development will protect or enhance landscape character and avoid detrimental effects on types, patterns and features which make a**

**significant contribution to the character, history and setting of a settlement or area;**

**3. All applications for development will consider the landscape and visual sensitivity of the area in which they are to be located or which they may affect. Planning applications will be supported by a Landscape and Visual Impact Assessment where, at the discretion of the Local Planning Authority, one is required. Proposals for appropriate mitigation and enhancement measures should also accompany applications.**

**This policy contributes towards achieving Objectives 4 and 9.”**

5.54 **Policy SD8: Historic Environment** states:

**“1. The built, natural and cultural heritage of Gloucester City, Cheltenham town, Tewkesbury town, smaller historic settlements and the wider countryside will continue to be valued and promoted for their important contribution to local identity, quality of life and the economy;**

**2. Development should make a positive contribution to local character and distinctiveness, having regard to valued and distinctive elements of the historic environment;**

**3. Designated and undesignated heritage assets and their settings will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place. Consideration will also be given to the contribution made by heritage assets to supporting sustainable communities and the local economy. Development should aim to sustain and enhance the significance of heritage assets and put them to viable uses consistent with their conservation whilst improving accessibility where appropriate;**

**4. Proposals that will secure the future conservation and maintenance of heritage assets and their settings that are at risk through neglect, decay or other threats will be encouraged. Proposals that will bring vacant or derelict heritage assets back into appropriate use will also be encouraged;**

**5. Development proposals at Strategic Allocations must have regard to the findings and recommendations of the JCS Historic Environment Assessment (or any subsequent revision) demonstrating that the potential impacts on heritage assets and appropriate mitigation measures have been addressed.**

**This policy contributes towards achieving Objectives 1, 2, 4 and 5.”**

5.55 The JCS requires developers to avoid harm to biodiversity or, where this is not possible, to incorporate mitigation measures into the design of developments. Developers should also ensure that development outside designated sites will not cause reasonably foreseeable harm to those sites, and if such an effect is likely, should mitigate against it.

5.56 **Policy SD9: Biodiversity and Geodiversity** states:-

**1. "The biodiversity and geological resource of the JCS area will be protected and enhanced in order to establish and reinforce ecological networks that are resilient to current and future pressures. Improved community access will be encouraged so far as is compatible with the conservation of special features and interests**

**2. This will be achieved by:**

**i. Ensuring that European Protected Species and National Protected Species are safeguarded in accordance with the law;**

**ii. Conserving and enhancing biodiversity and geodiversity on internationally, nationally and locally designated sites, and other assets of demonstrable value where these make a contribution to the wider network, thus ensuring that new development both within and surrounding such sites has no unacceptable adverse impacts;**

**iii. Encouraging new development to contribute positively to biodiversity and geodiversity whilst linking with wider networks of green infrastructure. For example, by incorporating habitat features into the design to assist in the creation and enhancement of wildlife corridors and ecological stepping stones between sites;**

**iv. Encouraging the creation, restoration and beneficial management of priority landscapes, priority habitats and populations of priority species. For example, by securing improvements to Strategic Nature Areas (as set out on the Gloucestershire Nature Map) and Nature Improvement Areas.**

**3. Any development that has the potential to have a likely significant effect on an international site will be subject to a Habitats Regulations Assessment**

**4. Within nationally designated sites, development will not be permitted unless it is necessary for appropriate on-site management measures, and proposals can demonstrate that there will be no adverse impacts on the notified special interest features of the site**

**5. Development within locally-designated sites will not be permitted where it would have an adverse impact on**



**the registered interest features or criteria for which the site was listed, and harm cannot be avoided or satisfactorily mitigated**

**6. Harm to the biodiversity or geodiversity of an undesignated site or asset should be avoided where possible. Where there is a risk of harm as a consequence of development, this should be mitigated by integrating enhancements into the scheme that are appropriate to the location and satisfactory to the Local Planning Authority. If harm cannot be mitigated on-site then, exceptionally, compensatory enhancements off-site may be acceptable.**

**This policy contributes towards achieving Objective 4.”**

5.57 The JCS guides new housing development to sustainable and accessible locations as set out in Policy SP2. Policy SD10 provides further detail in appropriate locations for residential development in the JCS area.

5.58 **Policy SD10: Residential Development** states:

**“1. Within the JCS area, new housing will be planned in order to deliver the scale and distribution of housing development set out in Policies SP1 and SP2**

**2. Housing development will be permitted at sites allocated for housing through the development plan, including Strategic Allocations and allocations in district and neighbourhood plans**

**3. On sites that are not allocated, housing development and conversions to dwellings will be permitted on previously-developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District plans**

**4. Housing development on other sites will only be permitted where:**

**i. It is for affordable housing on a rural exception site in accordance with Policy SD12, or;**

**ii. It is infilling within the existing built up areas of the City of Gloucester, the Principal Urban Area of Cheltenham or Tewkesbury Borough’s towns and villages except where otherwise restricted by policies within District plans, or;**

**iii. It is brought forward through Community Right to Build Orders, or;**

**iv. There are other specific exceptions / circumstances defined in district or neighbourhood.**

**5. Proposals involving the sensitive, adaptive re-use of vacant or redundant buildings will be encouraged, subject to the requirements of other policies including Policies SD1, INF4 and SD8. Proposals that will bring empty housing back into residential use will also be encouraged**

**6. Residential development should seek to achieve the maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network.**

**This policy contributes towards achieving Objectives 6, 7, 8 and 9.”**

5.59 Policy SD11 provides the framework so that new housing development addresses local needs and contributes to the creation of mixed and balanced communities, i.e. providing sufficient good quality housing of the right sizes, types and mix in the right places.

5.60 **Policy SD11:Housing Mix and Standards** states:

**“1.Housing Mix**

**i. Housing development will be required to provide an appropriate mix of dwelling sizes, types and tenures in order to contribute to mixed and balanced communities and a balanced housing market. Development should address the needs of the local area, including the needs of older people, as set out in the local housing evidence base including the most up to date Strategic Housing Market Assessment;**

**ii. Self-build housing and other innovative housing delivery models will be encouraged as part of an appropriate mix;**

**iii. Improvements to the quality of the existing housing stock involving remodelling or replacing residential accommodation will be encouraged where this would contribute to better meeting the needs of the local community, subject to the requirements of other policies including Policy SD4 and Policy SD8.**

**2 Standards**

**i. New housing should meet and where possible exceed appropriate minimum space standards;**

**ii. Housing should be designed to be accessible and adaptable as far as is compatible with the local context and other policies, including Policy SD8.**

**3 Specialist accommodation**

**i. Provision of specialist accommodation, including accommodation for older people, will be supported**

where there is evidence of a need for this type of accommodation and where the housing / bed spaces will contribute to meeting the needs of the local community;

ii. Specialist accommodation should be located to have good access to local services. In the case of Extra Care housing schemes which provide ancillary facilities on site, these facilities should complement those already available in the locality and should be made available to the wider community;

iii. Schemes that create self-contained units of accommodation will be subject to the requirements of Policy SD12.

**This policy contributes towards achieving Objectives 5, 8 and 9.”**

5.61 Policy SD12 provides the approach to affordable housing.

5.62 **Policy SD12:Affordable Housing** states:

**“1. The JCS authorities will seek, through negotiation, for new development to deliver new affordable housing on a sliding scale approach as set out below:**

**i. Within the Strategic Allocation sites a minimum of 35% affordable housing will be sought;**

**ii. Outside of the Strategic Allocation sites, on sites of 11 dwellings or more, or sites with a maximum combined gross floor space of greater than 1000 sqm; a minimum of 20% affordable housing will be sought on developments within the Gloucester City administrative area and a minimum of 40% will be sought within the Cheltenham Borough and Tewkesbury Borough administrative areas;**

**iii. On sites of 10 dwellings or less, which have a maximum combined floorspace of no more than 1,000 sqm, no contribution towards affordable housing will be sought;**

**iv. Notwithstanding the above, affordable housing policy for sites of 10 dwellings or less may be applied under policies set out within District plans.**

**2. This policy applies to dwellings (as defined by Use Class C3) and also any self-contained units of accommodation within a residential institution (Use Class C2). Where a development site has been divided into parts, or is being delivered in phases, the site will be considered as a whole for the purpose of determining the appropriate affordable housing requirement**

**3. Where possible, affordable housing should be provided on-site and should be seamlessly integrated and distributed throughout the development scheme. On sites where it is not possible to deliver all affordable**

housing as on-site provision, the residual requirement should be provided through acceptable alternative mechanisms (such as off-site provision or financial contributions). Further guidance on acceptable mechanisms may be provided in District plans

4. Affordable housing must also have regard to meeting the requirements of Policy SD11 concerning type, mix, size and tenure of residential development

5. The design of affordable housing should meet required standards and be equal to that of market housing in terms of appearance, build quality and materials

6. Provision should be made, where possible, to ensure that housing will remain at an affordable price for future eligible households, or that subsidy will be recycled for alternative affordable housing provision

#### **Rural exception sites**

7. In certain circumstances, where there is clear evidence of a local housing need that cannot be met elsewhere, affordable housing will be permitted on rural exception sites. A rural exception site must be within, or on the edge of, a rural settlement. It should be of a scale well related to the settlement both functionally and in terms of design

#### **Viability**

8. Where there is an issue relating to the viability of development that impacts on delivery of the full affordable housing requirement, developers should consider:

i. Varying the housing mix and design of the scheme in order to reduce costs whilst having regard to the requirements of other policies in the plan, particularly Policy SD4, and the objective of creating a balanced housing market;

ii. Securing public subsidy or other commuted sums to assist delivery of affordable housing;

9. If a development cannot deliver the full affordable housing requirement, a viability assessment, conforming to an agreed methodology, in accordance with Policy INF7 will be required. Viability assessments will be published in full prior to determination for all non-policy compliant schemes except in exceptional circumstances when it can be proven that publication of certain specific information would harm the commercial confidentiality of the developer to no public benefit. Where necessary the JCS authorities will arrange for them to be independently appraised at the expense of the applicant

The councils consider that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do

so in the knowledge that this will be made publicly available alongside other application documents

The councils will allow for exceptions to this in very limited circumstances and only in the event that there is a convincing case that disclosure of an element of a viability assessment would cause harm to the public interest to an extent that is not outweighed by the benefits of disclosure. Given the significant benefits associated with the availability of information to the public as a part of the decision making process, and the other factors identified above, the councils anticipate that there would be very few exceptions

If an applicant wishes to make a case for an exceptional circumstance in relation to an element of their assessment, they should provide a full justification as to the extent to which disclosure of a specific piece of information would cause an 'adverse effect' and harm to the public interest that is not outweighed by the benefits of disclosure. The council will consider this carefully, with reference to the 'adverse effect' and overriding 'public interest' tests in the EIR, as well as the specific circumstances of the case.

10. The viability of a site may enable additional levels of affordable housing to be delivered above the requirements set out in this policy. The JCS authorities will negotiate with developers to find an appropriate balance to deliver affordable housing and infrastructure needs.

This policy contributes towards achieving Objectives 8 and 9."

5.63 **Policy SD14: Health and Environmental Quality** – seeks to support the health and wellbeing of communities through provision of appropriate housing and employment opportunities and access to services, walking and cycling routes, green infrastructure, wildlife habitats and high quality built and historic environment that is clean safe and accessible.

5.64 **Policy SD14: Health and Environmental Quality** states:

**"1. High-quality development should protect and seek to improve environmental quality. Development should not create or exacerbate conditions that could impact on human health or cause health inequality.**

**2. New development must:**

**i. Cause no unacceptable harm to local amenity including the amenity of neighbouring occupants;**

**ii. Result in no unacceptable levels of air, noise, water, light or soil pollution or odour, either alone or cumulatively, with respect to relevant national and EU limit values;**

iii. Result in no exposure to unacceptable risk from existing or potential sources of pollution. For example, by avoiding placing sensitive uses in locations where national or EU limit values are exceeded, or by incorporating acceptable mitigation measures into development;

iv. Incorporate, as appropriate, the investigation and remediation of any land contamination within the site;

v. Ensure that any risks associated with land instability are satisfactorily resolved;

vi. Take into account the quality and versatility of any agricultural land affected by proposals, recognising that the best agricultural land is a finite resource;

vii. Have regard to any areas of tranquillity that are identified in adopted or emerging District plans and neighbourhood plans;

viii. Avoid any adverse impact from artificial light on intrinsically dark landscapes.

**3. Proposals for development at Strategic Allocations, and other development proposals as appropriate, must be accompanied by a health impact assessment.**

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

5.65 Recognition of the need to provide sufficient infrastructure to enable and support sustainable development and economic growth is inherent in the NPPF.

5.66 **Policy INF1: Transport Network** states:

**"1. Developers should provide safe and accessible connections to the transport network to enable travel choice for residents and commuters. All proposals should ensure that:**

**i. Safe and efficient access to the highway network is provided for all transport modes;**

**ii. Connections are provided, where appropriate, to existing walking, cycling and passenger transport networks and should be designed to encourage maximum potential use;**

**iii. All opportunities are identified and taken, where appropriate, to extend and / or modify existing walking, cycling and public transport networks and links, to ensure that credible travel choices are provided by sustainable modes.**

**2. Planning permission will be granted only where the impact of development is not considered to be severe. Where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be**

**mitigated to the satisfaction of the Local Planning Authority in consultation with the Highway Authorities and in line with the Local Transport Plan**

**3. Developers will be required to assess the impact of proposals on the transport network through a Transport Assessment. The assessment will demonstrate the impact, including cumulative impacts, of the prospective development on:**

- i. Congestion on the transport network;**
- ii. Travel safety within the zone of influence of the development;**
- iii. Noise and / or atmospheric pollution within the zone of influence of the development;**

**4. Where appropriate the Local Planning Authority may require applications to be accompanied by a Travel Plan that has full regard to the criteria set out in the NPPF.**

**This policy contributes towards achieving Objectives 1, 2, 3, 4, 5, 6, 7 and 9."**

5.67 The NPPF seeks to ensure that flood risk is taken into account at all stages of the planning process to avoid inappropriate development in areas at risk of flooding , and to direct development away from areas of high risk.

5.68 **Policy INF2: Flood Risk Management** states:

**"1. Development proposals must avoid areas at risk of flooding, in accordance with a risk- based sequential approach. Proposals must not increase the level of risk to the safety of occupiers of a site, the local community or the wider environment either on the site or elsewhere. For sites of strategic scale, the cumulative impact of the proposed development on flood risk in relation to existing settlements, communities or allocated sites must be assessed and effectively mitigated**

**2. Minimising the risk of flooding and providing resilience to flooding, taking into account climate change, will be achieved by:**

- i. Requiring new development to, where possible, contribute to a reduction in existing flood risk;**
- ii. Applying a sequential test for assessment of applications for development giving priority to land in Flood Zone 1, and, if no suitable land can be found in Flood Zone 1, applying the exception test;**
- iii. Requiring new development that could cause or exacerbate flooding to be subject to a flood risk assessment which conforms to national policy and incorporates the latest available updates to modelling and climate change data and historic data and information and guidance contained in the authorities'**



**Strategic Flood Risk Assessments and Supplementary Planning Documents, in order to demonstrate it will be safe, without increasing flood risk elsewhere;**

**iv. Requiring new development to incorporate suitable Sustainable Drainage Systems (SuDS) where appropriate in the view of the local authority to manage surface water drainage: to avoid any increase in discharge into the public sewer system; to ensure that flood risk is not increased on-site or elsewhere; and to protect the quality of the receiving watercourse and groundwater. Where possible, the authorities will promote the retrofitting of SuDS and encourage development proposals to reduce the overall flood risk through the design and layout of schemes which enhance natural forms of drainage. Developers will be required to fully fund such mitigation measures for the expected lifetime of the development including adequate provision for ongoing maintenance;**

**v. Working with key partners, including the Environment Agency and Gloucestershire County Council, to ensure that any risk of flooding from development proposals is appropriately mitigated and the natural environment is protected in all new development.**

**This policy contributes towards achieving Objective 6.”**

5.69 Due to the value of green infrastructure, individual features are often described as ‘assets’. These assets may be large or small, natural or man-made, ranging from expansive natural landscapes to individual trees and green roofs.

5.70 The JCS states at paragraph 5.4.4 that: *“All development, including development at Strategic Allocations, should make a positive contribution to green infrastructure in the JCS area.”*

5.71 **Policy INF3: Green Infrastructure** states:

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

**i. Improving the quantity and / or quality of assets;**

**ii. Improving linkages between assets in a manner appropriate to the scale of development, and**

**iii. Designing improvements in a way that supports the cohesive management of green infrastructure;**

**2. Development proposals should consider and contribute positively towards green infrastructure, including the wider landscape context and strategic corridors between major assets and populations. Where new residential development will create, or add to, a**



need for publicly accessible green space or outdoor space for sports and recreation, this will be fully met in accordance with Policy INF4. Development at Strategic Allocations will be required to deliver connectivity through the site, linking urban areas with the wider rural hinterland

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

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

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

5.72 Policy INF6 provides the policy for infrastructure delivery.

5.73 **Policy INF6:Infrastructure Delivery** states:

“1. Where infrastructure requirements are generated as a result of individual site proposals and / or having regard to cumulative impact, new development will be served and supported by adequate and appropriate on- and / or off-site infrastructure and services. In identifying infrastructure requirements, development proposals will also demonstrate that full regard has been given, where appropriate, to implementing the requirements of the Joint Core Strategy Infrastructure Delivery Plan

2. Where need for additional infrastructure and services and / or impacts on existing infrastructure and services is expected to arise, the Local Planning Authority will seek to secure appropriate infrastructure which is necessary, directly related, and fairly and reasonably related to the scale and kind of the development proposal, including:

- i. Broadband infrastructure;
- ii. Climate change mitigation / adaptation;
- iii. Community and cultural facilities and initiatives;
- iv. Early Years and Education;

- v. Health and well-being facilities and sport, recreation and leisure facilities;
- vi. The highway network, traffic management, sustainable transport and disabled people's access;
- vii. Protection of cultural and heritage assets and the potential for their enhancement;
- viii. Protection of environmental assets and the potential for their enhancement;
- ix. Provision of Green Infrastructure including open space;
- x. Public realm;
- xi. Safety and security including emergency services.

This list of potential infrastructure items is neither exhaustive, sequential nor are its elements mutually exclusive.

3. Priority for provision will be assessed both on a site-by-site basis and having regard to the mitigation of cumulative impact, together with implementation of the JCS Infrastructure Delivery Plan

4. Planning permission will be granted only where sufficient provision has been made for infrastructure and services (together with their continued maintenance) to meet the needs of new development and / or which are required to mitigate the impact of new development upon existing communities. Infrastructure and services must be provided in line with an agreed, phased timescale and in accordance with other requirements of this Plan.

**This policy contributes towards achieving all the JCS Strategic Objectives."**

5.74 Policy INF7 provides the approach to developers contributions.

5.75 **Policy INF7: Developer Contributions** states:

**"1. Arrangements for direct implementation or financial contributions towards the provision of infrastructure and services required as a consequence of development, including its wider cumulative impact, and provision where appropriate for its maintenance, will be negotiated with developers before the grant of planning permission. Financial contributions will be sought through the S106 and CIL mechanisms as appropriate**

**2. Where, having regard to the on- and / or off-site provision of infrastructure, there is concern relating to the viability of the development, an independent viability assessment, funded by the developer and in proportion with the scale, nature and / or context of the proposal, will be required to accompany planning applications. Viability assessments will be undertaken in accordance**

**with an agreed methodology and published in full prior to determination for all non-policy compliant schemes. Where necessary the JCS authorities will arrange for them to be independently appraised at the expense of the applicant.**

**This policy contributes towards achieving all of the JCS Strategic Objectives.”**

### **Cheltenham Borough Local Plan (adopted 2006)**

- 5.76 The adopted Cheltenham Borough Local Plan of 2006 is currently under review; it predates the NPPF. As set out in paragraph 213 of the NPPF 2018:

**“... existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”**

- 5.77 Upon adoption, the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) superseded a large number of policies from the saved Cheltenham Borough Local Plan (2006) as set out in Appendix 3.

### **APPENDIX 3: TABLE 15 SUPERSEDED 2006 LOCAL PLAN POLICIES.**

- 5.78 A list of remaining saved policies is included in Appendix 3, these relate to sustainable environment, safe and sustainable living, mixed use development, policies related to conservation areas, archaeological remains, trees, Bouncer Lane Cemetery, extensions of buildings in the AONB, rebuilding or replacement of dwellings in the Green Belt, safeguarding employment land, retail policies, play space and amenity space, allotments, and parking provision. Saved policies are included in Appendix 3.
- 5.79 It should be noted that the PUA boundary has not been updated to accord with the JCS review.

### **Cheltenham Plan Review**

- 5.80 The Cheltenham Borough Local Plan provides the detail of how and where the policies in the JCS will be implemented. It replaces policies in the adopted Cheltenham Borough Local Plan Second Review (2006) with the exception of policies in respect of retail (and those listed in Appendix 3) which is the subject of an early review of the JCS. Consultation on the Pre-Submission version of the

Local Plan took place in February – April 2018. The Local Plan was submitted for examination in October 2018 and the Inspector has been appointed. The examination hearing sessions are due to take place in February/March 2019. As such limited weight can be attached to the Plan.

- 5.81 The Cheltenham Plan, together with the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, the Gloucestershire Minerals and Waste Local Plans and any neighbourhood plans made in the future will, once adopted, comprise the statutory development plan for Cheltenham up to 2031.
- 5.82 The Cheltenham Plan vision and objectives are viewed within the context of the JCS’s vision and objectives as well as the Council’s own corporate vision. The Cheltenham Plan is being developed alongside an emerging Place Strategy for the Borough which will draw together the strands which impact on defining Cheltenham as a place and will act as a leadership and influencing tool to support economic growth and the wider wellbeing of communities.
- 5.83 There are 3 broad themes to the Vision for Cheltenham which are then supported by a number of objectives.

**“Vision Theme A: Cheltenham is a place where people live in strong, safe, healthy, well-served and well-connected communities which are successful and sustainable places in which to live and work and which contain the necessary infrastructure to support social and cultural life together with space for people and places to evolve in future. ”**

**“Vision Theme B: Cheltenham is a place with a prosperous and enterprising economy where education, skills and employment opportunities are increasing and diversifying, where businesses choose to invest and deliver increased value of economic output, and where the benefits are felt by all.”**

**“Vision Theme C: Cheltenham is a place where the quality and sustainability of our cultural assets and natural and built environment are valued and recognised locally, nationally and internationally and where tourists choose to visit and return.”**

- 5.84 Section 11 of the Plan covers residential development. In order to complement the strategic allocations being made through the JCS and to ensure that Cheltenham meets its objectively assessed need up to 2031, the Cheltenham Plan proposes a number of allocations for both residential development and mixed use development through Policies H1 and H2. (Pre-Submission Version of the Plan – February 2018).

5.85 The threshold for sites to be included in the local plan is 0.5ha or more in size and capable of accommodating 10 or more residential units.

5.86 **Policy H1 Land allocated for housing development** states:

**“The sites listed in Table 3, and which are shown on the Cheltenham Plan Proposals Map, are allocated for residential development and are delineated on Plans HD1 – HD8 below. The red lines on Plans HD1 – HD8 mark the boundaries of the allocations and are separately and collectively part of this policy.**

**Each allocation is supported by site-specific policies HD1 – HD8 below to provide further detailed guidance on the development of these sites. These site-specific policies also form part of this policy.**

**The contents of Policy H1 reflect the evidence bases of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the Cheltenham Plan.**

**This policy contributes towards achieving the Cheltenham Plan Vision: Theme A – objective b; Theme C – objectives a and b.”**

5.87 The application site is not a proposed allocation in the emerging Cheltenham Borough Local Plan.

5.88 In addition the following policies from the Cheltenham Plan (Pre-Submission version) are considered relevant to this application:-.

5.89 **Policy D1: Design**

**“Development will only be permitted where it:**

**a) adequately reflects principles of urban and architectural design; and**

**b) complements and respects neighbouring development and the character of the locality and / or landscape.**

**Extensions or alterations of existing buildings will be required to avoid:**

**a) causing harm to the architectural integrity of the building or group of buildings; and**

**b) unacceptable erosion of open space around the existing building.**

**This policy contributes towards achieving the Cheltenham Plan Vision: Theme A – objectives a, d, g and i; Theme C – objectives a, d and f.”**

5.90 Paragraph 5.4 states that:

**“The key principles of urban design and architectural design area set out in Tables SD4b and SD4c of the JCS. Together, these defined the overall layout of a place (in terms of its routes and building blocks), its scale (in terms of building height and massing), its appearance (as expressed in details and use of materials) and its landscape (including all the public realm, built and green spaces).”**

**5.91 Policy L1: Landscape and Setting.**

**“Development will only be permitted where it would not harm the setting of Cheltenham including views into or out of areas of acknowledged importance.**

**This policy contributes towards achieving the Cheltenham Plan Vision: Theme A – objective a; Theme C – objectives a, b and f.”**

**5.92 Policy SL1: Safe and Sustainable Living states:**

**“Development will only be permitted where it would:**

**a) not cause unacceptable harm to the amenity of adjoining land users and living conditions in the locality (Notes 1 & 2); and**

**b) not, by nature of its size, location, layout or design, give rise to crime or the fear of crime nor endanger public safety; and**

**c) make adequate provision for security and the prevention of crime and disorder including, where appropriate, the incorporation of counter-terrorism measures**

**d) accord with Policies SD4 and SD15 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy and the principles of good design embodied within**

**e) where appropriate, take account of local models for building socially sustainable communities.**

**This policy contributes towards achieving the Cheltenham Plan Vision: Theme A – objectives c, d, g, h and i.”**

**5.93 Paragraph 14.2 states that:**

**“Successful development management should be based on a clear understanding of the characteristics of the local area in terms of character, built form, architecture, heritage and landscape. Well-designed, attractive places improve the quality of life for all by enhancing the environment and minimising the opportunity for crime and the fear of crime. It also contributes to the development of safer, stronger and sustainable**

**communities that can adapt to the challenges of climate change.”**

5.94 The Cheltenham Plan includes a number of policies that complement the strategic framework provided by the JCS in respect of social and community infrastructure.

5.95 **Policy CI1: Securing Community Infrastructure Benefits** states:

**“Development proposals will only be permitted where adequate community infrastructure capacity exists, or where additional capacity is capable of being provided as part of the development without unacceptable impacts on people or the environment. In order to secure community infrastructure improvements, the Council will employ planning obligations as necessary and appropriate. Obligations may relate to:**

- a) affordable housing**
- b) green infrastructure, including open space**
- c) suitably designed and located play, recreation, sport and leisure facilities**
- d) education provision**
- e) broadband infrastructure provision**
- f) highway works, traffic management measures, pedestrian and cycling improvements, public transport enhancements and improved access for the disabled**
- g) improvements to the public realm**
- h) health and well-being facilities**
- i) safety and security measures**
- j) flood risk management measures**
- k) environmental protection and enhancement**
- l) climate change mitigation / adaption**
- m) cultural and heritage protection and enhancement**
- n) public art**

**This policy contributes towards achieving the Cheltenham Plan Vision: Theme A – all objectives; Theme B – objectives d, f and h; Theme C – all objectives.”**

5.96 Paragraphs 17.16 – 17.18 refer to planning applications that qualify for developers contributions:

**“For any planning application that qualifies for a developer contribution, the Social, Sport and Open Spaces Study – Developer Contributions Toolkit (2017) includes multi-stage assessment processes that the Council will follow in order to inform the potential additional demand that a new housing development generates.**

**Separate assessment processes relate to open space, playing pitches and built sports facilities. Any contribution sought from a specific development will be based on an individually tailored approach to that development, using the robust evidence bases provided as part of the Social, Sport and Open Spaces Study. This will help to clearly justify the needs arising from the development and how they are to be met.**

**As part of the process of assessing additional demand, the Council will have regard to the local standards that are set out in the papers pertaining to each of the three relevant categories. These are:**

**The Open Space Standards Paper**

**The Playing Pitch Strategy**

**The Indoor Sport and Leisure Facility Strategy.”**

5.97 **Policy CI2: Sports and Open Space Provision in new residential development** states:

**“The Council will expect new development to contribute towards meeting local standards in respect of the provision of:**

**a) Open Space**

**b) Playing pitches**

**c) Built sports facilities**

**On-site provision, off-site provision or a financial contribution may be sought in accord with the assessment processes defined in the Social, Sport and Open Spaces Study – Developer Contributions Toolkit (2017).**

**This policy contributes towards achieving the Cheltenham Plan Vision: Theme A – objective f; Theme C - objectives c and e.”**

#### Other Policy Considerations

5.98 The whole Borough is covered by an SFRA Level 1. The application site is in flood zone 1, it comprises 1.3 hectares and there are no known flooding issues with the site. An SFRA Level 2 was undertaken by the Council as part of the evidence base to support the consultation on the Pre-Submission version of the Local Plan.

5.99 Although the site is located in flood zone 1, notwithstanding this, sustainable drainage techniques are to be employed at the site in order to ensure there is betterment in terms of surface water run off rates from the completed development compared to the existing undeveloped site.



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5.100 The masterplan layout provides for on plot parking and provides for good public surveillance of shared spaces, and footpaths.

5.101 A draft Heads of Terms accompanies this document at Appendix 4 and sets out those areas where the developer is willing to offer S.106 contributions to meet those needs reasonably arising from the development of the site.

#### **APPENDIX 4 – DRAFT S.106 HEADS OF TERMS**

5.102 The application will also be subject to CIL which covers any contributions to strategic infrastructure off site, for example education.

5.103 A neighbourhood plan is being prepared by Leckhampton with Warden Hill Parish Council, which at the time of writing is at the Reg 14 stage, consequently limited weight can be attached to it for the purposes of decision making. However, it should be noted the Parish Council did not object to the principle of development in this location and furthermore the Draft Neighbourhood Plan Policy LWH10E would appear to endorse the principle of development in this location subject to a number of considerations. However, these considerations are a matter of detail and to be considered at a later date in the plan making process.

## 6. AFFORDABLE HOUSING STATEMENT

- 6.1 Paragraph 61 of the NPPF requires local authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups within the community. Paragraph 61 also states that the size, type and tenure of housing needed for different groups in the community should be reflected in planning policies.
- 6.2 The adopted Joint Core Strategy Policy SD12: Affordable Housing requires sites of 11 or more dwellings in Cheltenham Borough to bring forward 40% affordable housing.
- 6.3 Subsection 9 of Policy SD12 states that if a development cannot deliver the full affordable housing requirement, a viability assessment, conforming to an agreed methodology, in accordance with Policy INF7 will be required.
- 6.4 Given that this an outline application for dwellings at the site the application needs to be considered in the context of the adopted development plan and the most recent national planning policy guidance for the delivery of affordable dwellings.
- 6.5 The application proposes a policy compliant level of affordable housing i.e. 40%, and this matter is further considered in the Draft Heads of Terms submitted with the planning application and attached at Appendix 4.

## 7. PLANNING FACTORS IN SUPPORT OF DEVELOPMENT

- 7.1 **Compliance with local planning policy** - The site is consistent with the strategy for Cheltenham proposed in the JCS i.e. development is focussed on Cheltenham and Gloucester, including urban extensions to these areas. It cannot come forward as an allocated site as by its scale it is not a strategic site and the JCS only makes provision for strategic sites.
- 7.2 Policy SD10 of the JCS provides further detail around the appropriate locations for development in the JCS area, for non-allocated housing development this is in the existing Principal Urban Area of Cheltenham. It is common ground that land off Kidnappers Lane, Leckhampton is located beyond the built up area of the Principal Urban Area of Cheltenham and therefore the site conflicts with Policy SD10 of the JCS.
- 7.3 The existing Principal Urban Area has been amended in the emerging Cheltenham Borough Local Plan, but only insofar as to address any anomalies. The proposed changes to the PUA appear to be retrospective to address the inclusion of recent planning permissions, rather than taking the opportunity to review the boundary in light of the JCS housing requirement. Therefore, it is considered that the PUA boundary is out of date and does not assist the implementation of Policy SD10
- 7.4 Whilst, there is no longer a strategic allocation proposed in this location in the JCS, a site is proposed in the emerging Cheltenham Plan Policy H.2: Leckhampton (MD5) for, approximately 250 dwellings and a secondary school in close proximity to the site. Therefore the PUA boundary is subject to significant change in this location.
- 7.5 Since the appeal in February 2018 when the Council indicated it had a five year supply based on the adopted JCS (December 2017) of 5.6 years; the Council have acknowledged that the position has changed and there is no longer a five year housing land supply. The Council have a 4.6 years supply (August 2018)
- 7.6 **The Five Year Housing Lane Supply Position Statement (August 2018)** – has been prepared in the context of the NPPF 2012 as the Local Plan has been submitted for Examination in accordance with the Transition Arrangements set out Annex 1 of the NPPF July 2018. Consequently, the definition of deliverable is different in the new NPPF and therefore the five year land supply position would be significantly worse.

- 7.7 The Council acknowledge that they do not have a five year housing land supply (paragraph 35 of the Position Statement referred to above). In order to meet the housing requirement for Cheltenham Brough as set out in the JCS, the Council are reliant upon the delivery of housing provided on the two cross boundary strategic allocations (this was agreed through a Memorandum of Understanding). It is noted that the strategic allocations account for 45% of the total supply over the plan period and these sites are included in the housing trajectory. Emerging allocations, including sites already granted planning permission and sites that have not been granted planning permission but assessed in the SALA and the evidence base for the Local Plan account for 12% of the total housing supply. Windfalls account for 36%.
- 7.8 The Position Statement acknowledges that the Plan has undersupplied against the identified housing requirement in every year except 2017/18. Consequently, at the JCS examination it was agreed that Cheltenham should include a buffer of 20% in the five year housing land supply calculation to ensure that there is sufficient choice and competition in the market for land in accordance with the NPPF. Land at Kidnappers Lane is a site which is small in scale and can deliver in the short term therefore enabling the supply of housing in the Borough to be maintained.
- 7.9 The housing land supply is based on the Liverpool method and the stepped approach as agreed at the JCS. The need for this approach is due to the associated lead in times for the development of the Strategic Allocations, allocated in the JCS, therefore the supply is already stretched. The Position Statement acknowledges that Cheltenham is heavily reliant on the delivery of the strategic allocations in order to meet the required housing need. Figure 7 of the Position Statement indicates that Cheltenham is no longer able to demonstrate five year supply of housing land supply, the figure is 4.6 years.
- 7.10 It is noted that the Council have sought to illustrate the local supply position in the Borough by excluding the strategic allocations in terms of meeting the requirement and also their supply; this is contrary to the approach agreed in the JCS. The Council have then applied the Liverpool approach to the localised supply, this is not appropriate and conflicts with the approach agreed in the JCS. The Liverpool method and the stepped approach was only ever agreed in recognition of the development strategy and the long lead in times of the strategic allocations. Such an approach cannot be applied to the Borough's

supply and it is therefore misleading to state that this approach shows that “the localised supply is strong.”

- 7.11 For decision making the new NPPF comes into effect immediately. The new NPPF requires that a LPA maintains a five-year land supply of deliverable housing sites. Where such a supply is unable to be identified, a “tilted balance” is engaged such that permission should be granted unless the adverse effects significantly and demonstrably outweigh the benefits<sup>8</sup>.
- 7.12 The new NPPF (and supporting documents) provide a more prescriptive framework for how the five-year land supply is to be calculated.
- 7.13 The new NPPF revises the definition of deliverability (Glossary) as follows:

**“To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. Sites that are not major development, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (e.g. they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans). Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.” (my emphasis)**

- 7.14 The second sentence retains the presumption that sites with planning permission should be considered deliverable although it limits this so that it only applies to sites with detailed permission or small sites. The third sentence sets a presumption against the deliverability of allocated sites and sites with outline planning permission. Indeed, it identifies that there must be clear evidence that sites “will” be delivered which provides a very high bar namely that there must be a high degree of certainty of delivery.
- 7.15 There was a Technical Consultation on updates to national planning policy and guidance in October 2018 (the consultation closed on 7<sup>th</sup> December 2018). The consultation proposed to amend the definition of deliverable to clarify its intended application.

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<sup>8</sup> Unless specific policies in the NPPF provide a clear reason for refusing the proposed development.

- 7.16 Under the new NPPF, the housing delivery test is introduced. The data necessary to calculate the Housing Delivery Test results was published in November 2018, and this indicates that under NPPF, Cheltenham Borough Council would only be subject to a 5% buffer. The result of this is that the Council would actually be able to demonstrate a 5.3 year land supply based on their identified supply (with a surplus of 157 homes).
- 7.17 However, a significant proportion of the deliverable supply identified by Cheltenham Borough Council arises from emerging allocations identified in the emerging Cheltenham Plan. Such sources of supply are not identified within the closed list of the definition of deliverability in NPPF2, and they are likely to be subject to significant unresolved objections and so cannot be considered to be deliverable at present in any case.
- 7.18 This position has arisen, in part, as a result to the delays to the approval of planning permissions within Tewkesbury Borough i.e. the strategic allocations to meet Cheltenham's housing needs. Indeed, in the period 2018-23, the strategic urban extensions to Cheltenham (both within Cheltenham Borough and Tewkesbury Borough) were anticipated to deliver 1,630 homes according to the table at the top of page 115 of the JCS. However, Cheltenham Borough Council now identify that these will only deliver 845 homes in this period. This reduction alone (of 785 homes) can be demonstrated to be the reason why the Council is now unable to demonstrate a five-year land supply (with a shortfall of 629 homes), even in circumstances where the buffer has reduced from 20% to 5%.
- 7.19 Once these emerging allocations are removed from the deliverable supply, Cheltenham Borough Council would be able to demonstrate only a 3.9 year land supply (with a shortfall of 629 homes).
- 7.20 It is clear that Cheltenham Borough Council has a significant shortfall in its five-year land supply, even against the stepped housing requirement and using the Liverpool approach, both of which serve to delay meeting needs in the first place.
- 7.21 Therefore the tilted balance is engaged as set out in paragraph 11d of the NPPF which states that planning permission should be granted where:

**“there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date”**

- 7.22 Therefore, if there is conflict with restrictive policies then these will be out of date and need to be afforded reduced weight including Policy SD10.
- 7.23 Footnote 7 states that this shall occur in situations where:
- The LPA cannot demonstrate a five-year land supply; or
  - There has been substantial under-delivery over the previous three years.
- 7.24 **Transport** – Kidnappers Lane benefits from being in close proximity to the A46 where there are regular bus services to the town centre. A Transport Statement prepared by PFA Consulting forms part of the application submission to support the site and demonstrates that the application will not give rise to a material increase in vehicular movements which cannot be safely accommodated on the existing network. Indeed in the recent appeal decision for this site for a larger number of dwellings (45) (APP/B1605/W/17/3178952) the Inspector concluded that he was “*satisfied that any increase in traffic from the proposed development would not result in severe harm to the highway safety. Moreover this is consistent with the Highways Authority who raised no objection in relation to capacity of highway safety.*” Therefore, there should be no highways objection to this application for a smaller number of dwellings (25).
- 7.25 **Flooding** – A Flood Risk Assessment (FRA) has been prepared by Phoenix Design Partnership Ltd and is submitted with the application. The Assessment confirms that the application site falls within Flood Zone 1 which the NPPF confirms is an area with the lowest probability of flooding.
- 7.26 Flood risk from all sources (fluvial, pluvial, sewers, groundwater, artificial) has been assessed and it has been demonstrated that the proposed development will not be at risk from flooding. To ensure that flood risk downstream will not be increased run-off will be attenuated on site and flows restricted to existing green-field rates, or less, for all events up to and including the 100 year with a 30% allowance for climate change.
- 7.27 The FRA demonstrates that the proposed development meets with all the national and regional policy requirements, satisfies all the criteria of the Environment Agency and will not increase flood risk to the area.

- 7.28 **Ecology** - An extended Phase 1 Habitat Survey and various habitat and faunal surveys have been undertaken across the application site by Ecology Solutions and the findings are set out in the submitted Ecological Assessment.
- 7.29 The surveys conclude that overall, the application site is of low ecological value and that the proposals provide the opportunity to enhance the ecological interest of the application site through the provision of new tree planting, the creation of new attenuation ponds and the reinforcement of the western and northern boundaries of the application site.
- 7.30 The Assessment concluded that following mitigation and enhancement measures overall impacts are considered to be positive at the local level and will ensure no net loss in biodiversity terms.
- 7.31 **Landscape** - The application is accompanied by a Landscape and Visual Appraisal (LVIA) prepared by MHP, which considers the impact of the proposal on the local landscape character and the adjacent AONB.
- 7.32 The study site falls outside of the Cotswolds AONB, but is assessed to form part of a broader valued landscape although the site itself does not provide rare or distinctive landscape or visual attributes which contribute to the valued landscape other than it remains open in character.
- 7.33 A number of public rights of way are located within the local context to the site including footpaths and the Cotswold Way national trail within the Cotswolds AONB. The Cotswold escarpment is a distinctive landform that provides the general backdrop and focus to local views to the east and south east.
- 7.34 As referred to earlier in this Statement the appeal was dismissed, but the observations drawn by the Inspector have been taken into consideration in this assessment. The Inspector accepted that there is potential for an alternative site layout and arrangement, although the access to the site is largely fixed.
- 7.35 The LVIA is for development of up to 25 dwellings in a significantly lower density scheme that has responded to the concerns and observations made in the previous appeal. The key difference when comparing schemes is the lower density of the present proposals which provide internal space for hedge and tree planting along the southern and western site boundaries. In addition, a central belt of open space allows trees planting to divide the site into two parts so reducing the visual mass of the development. The low density of the scheme also allows the



site entrance to be kept free of development and extensively planted with new hedges and trees to create a robust screen with Kidnappers Lane.

- 7.36 With the mitigation in place this assessment has identified that the development would result in only slight adverse effects to site, local and district landscape character through the loss of the openness, replaced with new green infrastructure that protects the semi-rural character of the area.
- 7.37 In terms of local visual amenity this assessment identifies that with established mitigation there would be slight adverse residual effects in views experienced in local views from the north and west of the study site and no significant visual effects from views south of Kidnappers Lane or from footpaths on the escarpment or its foot slope within the AONB to the east. This assessment has identified that from Kidnappers Lane itself views into the site would be improved by the proposed new green infrastructure which would retain the leafy setting of the lane and restrict views on new built form.
- 7.38 It should be noted that the LVIA does not take into account the proposed allocation for residential in the emerging Local Plan ( Policy MD5 Leckhampton) or the proposed development of the secondary school within land adjoining the A46 highway or Kidnappers Lane. It is considered that such development is likely to change both the landscape and visual baseline against which proposed development on the study site should be assessed.
- 7.39 **Heritage** - A desk-based assessment has established that the study site contains no designated heritage assets, and will have no direct impact on any designated heritage assets. While the study site lies within the settings of a number of designated heritage assets, it makes a limited contribution to these settings. The assessment concluded that in most cases, the settings make a limited contribution to the significance of the assets assessed, and so it is considered that the proposed development, even if making small changes to settings, would cause no appreciable harm to the significance of any of these assets.
- 7.40 **Contribution to meeting affordable housing needs**, the site will make a contribution to affordable housing at 40% and therefore is policy compliant.
- 7.41 To conclude, the site is available now and housing can be delivered within the plan period, with no major infrastructure required.

7.42 The proposed development is consistent with the NPPF taken as a whole contributing to the three objectives of sustainable development, increasing the supply of housing at a sustainable location within the Borough and providing a contribution to meeting affordable housing needs.

## 8. SUMMARY AND CONCLUSIONS

- 8.1 The Planning Statement has been prepared on behalf of Robert Hitchins Ltd and their successors in title to the land in support of an application for outline planning permission for a development comprising up to 25 dwellings, associated infrastructure and landscaping. All matters of detail are reserved for subsequent approval.
- 8.2 The application is submitted with a number of supporting documents as required by the Borough Council's Validation Checklist.
- 8.3 The proposed development is consistent with the NPPF contributing to the three objectives of sustainable development and increases the supply of housing at Cheltenham in general accordance with the spatial strategy of the adopted JCS (2017) and the emerging Cheltenham Borough Plan.
- 8.4 Since the appeal decision in April 2018, circumstances have changed:
- a number of changes have been made to the application and there are changed circumstances in respect of national guidance etc. The application is for a reduced number of dwellings (25 instead of 45).
  - the illustrative masterplan has been redesigned to reflect the reduced number of dwellings and also addresses the issues in respect of the character and appearance of the area.
  - furthermore, since the appeal the local planning authority no longer have a five year housing land supply (as confirmed in the Five Year Housing Land Supply Position Statement – August 2018).
  - the emerging Local Plan has not moved on significantly, although it has been submitted for Examination, the Hearing Sessions are about to commence later next month.
- 8.5 Therefore, the application must be considered in the tilted balance, unlike the previous appeal.
- 8.6 The housing need has been accruing since the start of the plan period (the fact that a Liverpool stepped approach to housing delivery is applied masks the fact that need is not being met).
- 8.7 The site is environmentally unconstrained and the proposals will not lead to any unacceptable harm in terms of impact on highway safety, flooding, heritage assets, landscape or biodiversity.
- 8.8 The site is suitable, available and deliverable for housing, and has the capacity for up to 25 dwellings (including affordable housing) to help support the authorities

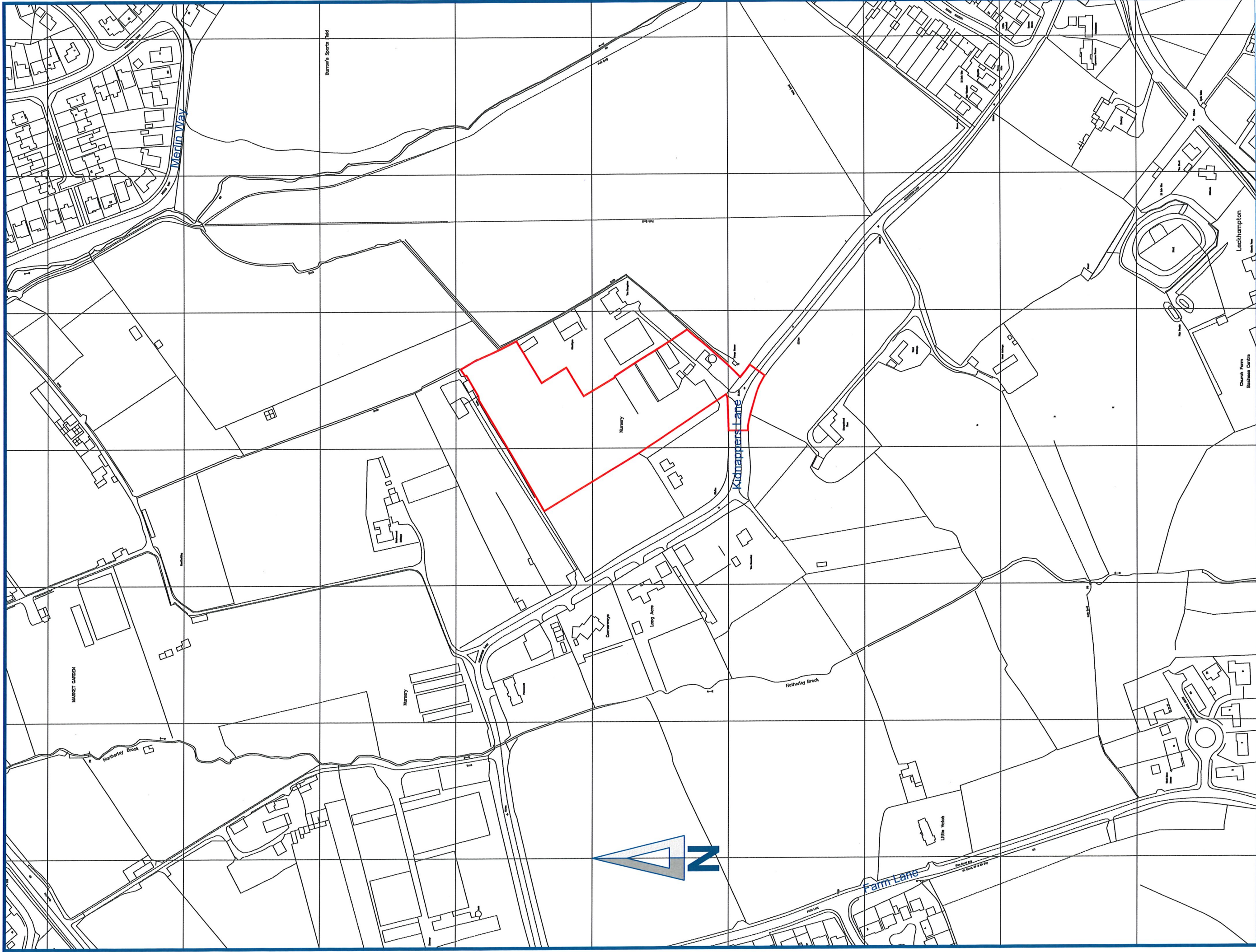
five-year housing land supply. The Council acknowledge that there is a five year housing land supply shortfall and that the housing delivery in the Borough is already failing as there is a reliance on strategic allocations (45%).


- 8.9 The site provides the opportunity to deliver new homes in the early period of the emerging plan, ahead of the large allocations elsewhere in the JCS, which the Council acknowledges are delayed. The site is therefore suitable, available and deliverable and can deliver in totality within the next five years.
- 8.10 It is submitted that the site helps to contribute to an increased supply in housing land in accordance with the spirit of the NPPF and the Housing White Paper.

**APPENDIX 1**

**SITE LOCATION PLAN**





Site Name: <b>Land off Kidnappers Lane , Leckhampton</b>		Drawing Number: <b>300.P.2</b>		Revision: <b>A</b>	
Drawing Title: <b>Location Plan</b>		Drawn By: <b>POK</b>		Date: <b>21.08.2018</b>	
				Scale: <b>1:2500@A3</b>	
 <b>Robert Hitchins</b> The Complete Development Solution The Manor, Boddington, Gloucestershire, GL51 0TJ Tel: 01242 680694 www.roberthitchins.co.uk					

## **APPENDIX 2**

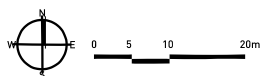
### **INDICATIVE MASTERPLAN**



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- KEY**
- INDICATIVE BUILT FORM (UP TO 25 UNITS)
  - PROPOSED TREE PLANTING
  - EXISTING TREES TO BE RETAINED
  - PROPOSED HEDGE PLANTING
  - EXISTING HEDGES TO BE RETAINED
  - PROPOSED SUDS POND & PUBLIC OPEN SPACE
  - PUBLIC OPEN SPACE
  - FOUL WATER PUMP STATION
  - EXISTING TRACK RETAINED
  - ROAD



## KIDNAPPERS LANE, LECKHAMPTON - ILLUSTRATIVE MASTERPLAN





## **APPENDIX 3**

### **EXTRACT FROM THE CHELTENHAM LOCAL PLAN TABLE 15 SUPERSEDED 2006 LOCAL PLAN POLICIES**

## 20. POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

- 20.1. The Joint Core Strategy (JCS) supersedes policies from the saved Cheltenham Borough Local Plan (2006) as set out below. Where 2006 Local Plan policies are not superseded by the JCS, they will remain saved, but will be superseded by the new Cheltenham Plan once adopted. The exception is Retail, which will be subject to the JCS Retail Review.

<b>Table 15: Superseded 2006 Local Plan policies</b>		
<b>2006 Local Plan policy ref.</b>	<b>Policy heading</b>	<b>Status</b>
CP 1	Sustainable Development	Superseded by JCS policies SD10, SD14
CP 2	Sequential Approach to Location of Development	Local Plan Policy to be saved beyond the adoption of the JCS
CP 3	Sustainable Environment	Local Plan Policy to be saved beyond the adoption of the JCS
CP 4	Safe and Sustainable Living	Local Plan Policy to be saved beyond the adoption of the JCS
CP 5	Sustainable Transport	Superseded by JCS policies SD3, INF1
CP 6	Mixed-Use Development	Local Plan Policy to be saved beyond the adoption of the JCS
CP 7	Design	Local Plan Policy to be saved beyond the adoption of the JCS

POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

CP 8	Provision of Necessary Infrastructure and Facilities	Superseded by JCS policies INF4, INF6, INF7
PR 1	Land Allocated for Housing Development	Local Plan Policy to be saved beyond the adoption of the JCS
PR 2	Land Allocated for Mixed-Use Development	Local Plan Policy to be saved beyond the adoption of the JCS
PR 3	Land Safeguarded for Transport Schemes	Deleted
BE 1	Open Space in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 2	Residential Character in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 3	Demolition in Conservation Areas	Deleted
BE 4	Timing Of Demolition in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 5	Boundary Enclosures in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 6	Back Lanes in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 7	Parking on Forecourts or Front Gardens in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 8	Demolition of Listed Buildings	Deleted
BE 9	Alteration of Listed Buildings	Deleted

POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

BE 10	Boundary Enclosures to Listed Buildings	Local Plan Policy to be saved beyond the adoption of the JCS
BE 11	Buildings of Local Importance	Local Plan Policy to be saved beyond the adoption of the JCS
BE 12	Advertisements and Signs	Deleted
BE 13	Advertisements and Signs in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 14	Advertisement Hoardings in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 15	Projecting Signs in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 16	Petrol Filling Stations and Car Sales in Conservation Areas	Local Plan Policy to be saved beyond the adoption of the JCS
BE 17	Advertisements And Signs On Listed Buildings	Local Plan Policy to be saved beyond the adoption of the JCS
BE 18	Design and Landscaping of New Roads	Superseded by JCS policy SD4
BE 19	Nationally Important Archaeological Remains	Local Plan Policy to be saved beyond the adoption of the JCS
BE 20	Archaeological Remains of Local Importance	Local Plan Policy to be saved beyond the adoption of the JCS
GE 1	Public Green Space	Local Plan Policy to be saved beyond the adoption of the JCS
GE 2	Private Green Space	Local Plan Policy to be saved beyond the adoption of the JCS

POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

GE 3	Development within Extensive Grounds	Superseded by JCS policies SD4, SD9, INF3
GE 4	Pittville Park and Bouncers Lane Cemetery	Local Plan Policy to be saved beyond the adoption of the JCS
GE 5	Protection and Replacement of Trees	Local Plan Policy to be saved beyond the adoption of the JCS
GE 6	Trees and Development	Local Plan Policy to be saved beyond the adoption of the JCS
GE 7	Accommodation and Protection of Natural Features	Local Plan Policy to be saved beyond the adoption of the JCS
CO 1	Landscape Character	Superseded by JCS policies SD4, SD6, SD7
CO 2	Development within or affecting the AONB	Superseded by JCS policy SD7
CO 3	Rebuilding or Replacement of Buildings in the AONB	Superseded by JCS policy SD7
CO 4	Extension of Buildings in the AONB	Local Plan Policy to be saved beyond the adoption of the JCS
CO 5	Definition of Green Belt	Superseded by JCS policy SD5
CO 6	Development in the Green Belt	Superseded by JCS policies SD5, SD10
CO 7	Rebuilding or Replacement of Dwellings in the Green Belt	Local Plan Policy to be saved beyond the adoption of the JCS
CO 8	Extension of Dwellings in the Green Belt	Deleted



POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

CO 9	Development at Cheltenham Racecourse	Superseded by JCS policy SD5
CO 10	Agricultural Land	Superseded by JCS policy SD14
CO 11	Agricultural and Forestry Dwellings	Local Plan Policy to be saved beyond the adoption of the JCS
CO 12	Farm Diversification Projects	Superseded by JCS policies SD1, SD4, SD6
CO 13	Conversion of Rural Buildings	Local Plan Policy to be saved beyond the adoption of the JCS
CO 14	Development Abutting the Countryside	Superseded by JCS policies SD4, SD6
NE 1	Habitats of Legally Protected Species	Superseded by JCS policy SD9
NE 2	Designated Nature Conservation Sites	Superseded by JCS policy SD9
NE 3	Biodiversity and Geodiversity of Local Importance	Superseded by JCS policy SD9
NE 4	Contaminated Land	Superseded by JCS policy SD14
EM 1	Employment Uses	Superseded by JCS policy SD1
EM 2	Safeguarding of Employment Land	Local Plan Policy to be saved beyond the adoption of the JCS
HS 1	Housing Development	Superseded by JCS policy SD10
HS 2	Housing Density	Superseded by JCS policy SD10
HS 3	Sub-Division of Existing Dwellings	Superseded by JCS policy SD4

POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

HS 4	Affordable Housing	Superseded by JCS policy SD12
HS 5	Mixed Communities	Superseded by JCS policy SD11
HS 6	Elderly Persons Housing	Superseded by JCS policy SD11
HS 7	Loss of Residential Accommodation	Deleted
HS 8	Houses in Multiple Occupation	Deleted
RT 1	Location of Retail Development	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RT 2	Retail Development in the Core Commercial Area	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RT 3	Non-A1 Uses in Primary Shopping Frontages	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RT 4	Retail Development in Local Shopping Centres	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RT 5	Non A1 Uses in Local Shopping Centres	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RT 6	New Local Shopping Centres	Deleted
RT 7	Retail Development in Out of Centre Locations	Deleted
RT 8	Individual Convenience Shops	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RT 9	Car Sales	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan

POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

RT 10	Access to Upper Floors of Commercial Premises	Local Plan Policy to be saved beyond the adoption of the JCS and Cheltenham Plan
RC 1	Existing Community Facilities	Superseded by JCS policy INF4
RC 2	Youth and Adult Outdoor Playing Facilities	Local Plan Policy to be saved beyond the adoption of the JCS
RC 3	Outdoor Playing Facilities in Educational Use	Superseded by JCS policy INF4
RC 4	Casual Play Space	Local Plan Policy to be saved beyond the adoption of the JCS
RC 5	Development of Amenity Space	Local Plan Policy to be saved beyond the adoption of the JCS
RC 6	Play Space in Residential Development	Local Plan Policy to be saved beyond the adoption of the JCS
RC 7	Amenity Space in Housing Developments	Local Plan Policy to be saved beyond the adoption of the JCS
RC 8	New Public Green Space	Local Plan Policy to be saved beyond the adoption of the JCS
RC 9	Honeybourne Line Footpath/Cycleway	Local Plan Policy to be saved beyond the adoption of the JCS
RC 10	Allotments	Local Plan Policy to be saved beyond the adoption of the JCS
RC 11	Recreation and Sport in the Countryside	Superseded by JCS policies SD5, SD6, SD7
RC 12	Golf Courses	Superseded by JCS policies SD5, SD6, SD7



POLICIES SUPERSEDED BY THE JOINT CORE STRATEGY & CHELTENHAM PLAN

RC 13	Public Rights of Way in the Countryside	Superseded by JCS policy INF3
UI 1	Development in Flood Zones	Superseded by JCS policy INF2
UI 2	Development and Flooding	Superseded by JCS policy INF2
UI 3	Sustainable Drainage Systems	Superseded by JCS policy INF2
UI 4	Maintenance Strips for Watercourses	Local Plan Policy to be saved beyond the adoption of the JCS
UI 5	Culverting of Watercourses	Superseded by JCS policy INF2
UI 6	Development Near Sewage Treatment Works	Superseded by JCS policies SD5, SD14
UI 7	Renewable Energy	Superseded by JCS policies SD3, SD4, SD14, INF5
UI 8	Telecommunications Installations	Superseded by JCS policies INF6, SD14
TP 1	Development and Highway Safety	Superseded by JCS policies SD4, INF1
TP 2	Highway Standards	Superseded by JCS policies SD4, INF1
TP 3	Servicing of Shopping Facilities	Deleted
TP 4	Long-Stay Car Parking	Local Plan Policy to be saved beyond the adoption of the JCS
TP 5	Extension of Private Car Parking Facilities	Deleted
TP 6	Parking Provision In Development	Deleted

**APPENDIX 4**

**DRAFT HEADS OF TERMS**



**Land off Kidnappers Lane, Cheltenham**

**DRAFT HEADS OF TERMS  
(January 2019)**

## **Public Open Space/Recreation Provision**

1. At the same time as submitting an application for approval of reserved matters pursuant to the permission, details as to the provision of Public Open Space shall be submitted to the Borough Council. The Developer will lay out the Public Open Space/Recreational Space as approved under the reserved matters application and having received written confirmation from the Borough Council that the Public Open Space/Recreational Space has been laid out to its reasonable satisfaction thereafter to retain maintain and manage the Public Open Space/Recreational Space in accordance with a Landscape Masterplan for a minimum period of 12 months AND to ensure that the Public Open Space is retained as publicly accessible areas.
  
2. Upon expiry of said 12 months to invite the Borough Council to inspect the Public Open Space/Recreational Space and upon confirmation from the Borough Council that the Public Open Space/Recreational Space has been properly maintained to its reasonable satisfaction, the Developer may (at its discretion) either
  - offer to transfer the Public Open Space/Recreational Space to the Borough Council or such other body nominated by the Borough Council; or;
  - transfer the Public Open Space/Recreational Space to a Management Body.

In the event that the Public Open Space/Recreational Space is transferred to the Borough Council, the Developer will pay a commuted sum to the Borough Council for the future maintenance of the Public Open Space/Recreational Space. In the event that the Public Open Space/Recreational Space is transferred to a Management Body it shall be on terms requiring the Public Open Space/Recreational Space to be managed and maintained in accordance with a Landscape Masterplan.

### **Affordable Housing**

3. 40% of the new dwelling units shall be used exclusively for the purposes of “Affordable Housing” as defined by the National Planning Policy Framework.
4. The Affordable Housing will comprise both rented housing and intermediate tenure housing in proportions to be agreed.
5. The Affordable Units will consist of a range of dwelling types and sizes to be agreed.
6. The Developer shall use all reasonable endeavours to ensure that the Affordable Housing Units shall be constructed contemporaneously with the Market Housing save where non provision of the entirety of the Affordable Housing is not due to the demonstrable fault of the Developer.
7. The Affordable Housing shall be distributed throughout the land in groups of not more than 16 dwellings and shall be designed and constructed to no less a standard than and to be visually indistinguishable.
8. A plan identifying the size and location of the Affordable Housing shall be submitted to the Council with application for the approval of reserved matters for the development.

### **Transportation**

9. The Developer will make such contributions as can be lawfully justified under the CIL Regulations towards the provision of transportation measures.