

APPLICATION NO: 19/00334/OUT	
DATE REGISTERED: 20th February 2019	
DATE VALIDATED: 20th February 2019	
WARD: Leckhampton	PARISH: Leckhampton With Warden Hill
APPLICANT:	Robert Hitchins Limited
AGENT:	
LOCATION:	Land Off Kidnappers Lane Cheltenham
PROPOSAL:	Residential development of up to 25 dwellings, associated infrastructure, open space and landscaping, with creation of new vehicular access from Kidnappers Lane, Demolition of existing buildings

RECOMMENDATION: Minded to refuse



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site is situated adjacent to the Cheltenham Urban Area located to the northern side of Kidnappers Lane in the Leckhampton area of the town. The site is located approximately 1.6km from the Up Hatherley District Centre, 2km from the Bath Road District Centre and 3.5km from the town centre.
- 1.2 The application site is a relatively flat area of land measuring 1.3 hectares. The site comprises a semi-rectangular area of a former plant nursery bounded by established hedgerows on its western and southern boundaries with an open field boundary to the north abutting agricultural land beyond. The eastern boundary is formed by an adjacent plant nursery complex which contains a number of horticultural structures of varying construction. Access to the site is directly from Kidnappers Lane to the south which in turn provides access to the A46 Shurdington Road to the north of the site and Church Road to the south.
- 1.3 Further to the south of the site beyond Church Road lies the escarpment of the Cotswold Area of Outstanding Natural Beauty, with the Green Belt land to the west beyond the Lanes and Brizen Lane residential areas.
- 1.4 The current application seeks outline planning permission with all matters being reserved for a residential development of up to 25 dwellings. The illustrative plans submitted show associated infrastructure, open space and landscaping, with creation of new vehicular access from Kidnappers Lane.
- 1.5 An application for up to 650 dwellings on adjacent land was refused as part of an outline application (13/01605/OUT). That application was the subject of an appeal which was called in by the Secretary of State and subsequently dismissed on the 5th May 2016. The current application site formed part of the refused planning application but was withdrawn and not considered as part of the appeal proceedings.
- 1.6 A further application was submitted on this site in February 2016 (16/00202/OUT) for the erection of 45 dwellings. This application was also subject to an appeal which was dismissed on the 4th April 2018.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Flood Zone 1

Relevant Planning History:

06/01119/FUL 12th October 2006 PER

Relocation of existing polytunnels

07/01651/COU 28th February 2008 PER

Provide a small cafeteria serving snacks and coffee and a small shop selling gifts and garden accessories

83/00593/PF 22nd February 1983 REF

Outline application for residential development, including shops and associated community facilities. Construction of a new vehicular and pedestrian access.

15/01425/SCREEN 25th April 2017 ISSUE

Request for a screening opinion under regulation 5 of the Town and Country Planning (Environmental Impact Assessment Regulations 2011 (as amended))

16/00202/OUT 21st April 2017 REF

Residential development of up to 45 dwellings, associated infrastructure, open space and landscaping, with creation of new vehicular access from Kidnappers Lane, demolition of existing buildings

3. POLICIES AND GUIDANCE

National Planning Policy Framework (NPPF)

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 5 Delivering a sufficient supply of homes
Section 8 Promoting healthy and safe communities
Section 9 Promoting sustainable transport
Section 11 Making effective use of land
Section 12 Achieving well-designed places
Section 15 Conserving and enhancing the natural environment
Section 16 Conserving and enhancing the historic environment

Saved Local Plan (LP) Policies

CP 3 Sustainable environment
CP 4 Safe and sustainable living
CP 7 Design
BE 20 Archaeological remains of local importance
GE 5 Protection and replacement of trees
GE 6 Trees and development
RC 2 Youth and adult outdoor playing facilities
RC 5 Development of amenity space
RC6 Play Space in residential development
RC7 Amenity Space in housing development

Adopted Joint Core Strategy (JCS) Policies

SD3 Sustainable Design and Construction
SD4 Design Requirements
SD6 Landscape
SD7 The Cotswold Area of Outstanding Natural Beauty
SD8 Historic Environment
SD9 Biodiversity and Geodiversity
SD10 Residential Development
SD11 Housing Mix and Standards
SD12 Affordable Housing
SD14 Health and Environmental Quality
INF1 Transport Network
INF2 Flood risk management
INF 4 Social and Community Infrastructure
INF6 Infrastructure Delivery
INF7 Developer Contributions

Supplementary Planning Guidance/Documents

Flooding and sustainable drainage systems (2003)
Landscaping in new development (2004)
Sustainable buildings (2003)
Sustainable developments (2003)

4. CONSULTATIONS

Building Control

5th March 2019 - The application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

Parish Council

27th March 2019 - THIS IS AN UPDATED SUBMISSION FROM THE PARISH COUNCIL OF LECKHAMPTON WITH WARDEN HILL AND SUPERCEDES THE PREVIOUS SUBMISSION YESTERDAY.

Application 19-00334 OUT - Land off at Kidnappers Lane Robert Hitchins Ltd

Comments by Leckhampton with Warden Hill Parish Council

The Council strongly objects to the application on the following grounds:

This application is a revised version of the application 16/00202/OUT that was submitted by the Robert Hitchins in 2016. That application was refused by Cheltenham Borough Council and the subsequent appeal (reference APP/B1605/W/17/3178952) was also dismissed on 4 April 2018. The revised application has sought to address some of the reasons that the first application was rejected but it provides little improvement over its predecessor.

The site is surrounded by valued landscape and the impact of any development on the valued landscape is one key issue. The site is also close to Leckhampton Hill and very visible from the Hill. Its impact on this view is a second key issue. Thirdly, the site is in the middle of a semi-rural area that is proposed for designation as a Local Green Space in the emerging Cheltenham Plan. The site is part of the 3.2 hectare Orchards and Nurseries area (Area ON) that the Parish Council excluded from the proposed Local Green Space in the belief that it had potential for some limited development, but only provided this was of a rural character and suitably sympathetic and well screened. How to achieve this and indeed whether it is possible at all on the site is a third key issue.

The Parish Council had discussions with Robert Hitchins in 2015 and 2016 on what sort of development might be feasible on this site. The discussion included both the 2016 application for 45 dwellings and also a less dense development of around 25 dwellings, much as proposed in the current application. In both cases the Parish Council made clear that neither development was feasible because the estate character conflicted with the semi-rural surroundings. The Council advised Robert Hitchins that in its view the only development that could possibly be supportable would be some form of community farmstead, similar to Leckhampton Farm Court on Farm Lane. The key features that make Leckhampton Farm Court fit successfully into the landscape are that it is a converted farm and farm yard and that it is moderately well screened by high trees along Hatherley Brook and on its south side facing Leckhampton Hill.

Impact on the view from Leckhampton Hill

Leckhampton Hill is a nationally important viewpoint, one of only 30 viewpoints in England identified in the AA 3 miles to the inch and 4 miles to the inch road atlas of Great Britain and one of only 47 such viewpoints in the whole of Great Britain (Table 2). These are viewpoints with outstanding views that are also within reasonably easy reach of a road. In the case of Leckhampton Hill, the beauty of the view derives partly from its breadth, landscape diversity and the very long distance that can be seen in many directions, and also from the attractiveness and interest of Cheltenham in the mid-foreground and of the semi-rural landscape of the Leckhampton Fields in the immediate foreground. There are many other excellent viewpoints along the Cotswold Scarp, but what so distinguishes the view from Leckhampton Hill is the rich combination of beautiful features and interest and the absence of ugly features that undermine some other viewpoints. Conserving the beauty of the foreground is very important to the view; it is not just the distant hills and mountains that matter, beautiful though they are.

In paragraph 24 of the 2018 Appeal Decision, Inspector Bridgwater says:

'With regard to landscape character, I have carefully considered the detailed submissions of the appellant. However, I consider that the proposed development (up to 45 dwellings) would appear as an island of dense development, visually divorced from the urban edge of Cheltenham. This would be in stark contrast to the dispersed semi-rural settlement pattern of the locality. Furthermore, the likely introduction of an engineered vehicular access and footways would increase the presence of an incongruous suburban type development in a semi-rural area. Moreover, this effect would be particularly prominent when viewed from Leckhampton Hill where the semi-rural landscape can be fully appreciated. As such, the proposal would result in material harm to the landscape character of the area.'

The reduction from 45 dwellings to 25 dwellings would still leave this as an island of fairly dense development in the context of the semi-rural area and the slight curving of the road through the development does not alter the fact that viewed from Leckhampton Hill the development would still look like a suburban estate. It would not have the appearance of a rural hamlet.

Impact on the valued landscape

The adverse impact of development on the valued landscape is well covered by Inspector Bridgwater in the Appeal Decision. In paragraph 23 he says: 'the cumulative visual effects of the proposal would result in an incongruous and permanently harmful visual effect, which would materially harm the character and appearance of the area.'

In paragraph 18 he says: 'Kidnappers Lane and the area in the vicinity of the (appeal) site are semi-rural in character. As such, the site is a component part of a mosaic of rural and settled features at the edge of the main settlement area of Cheltenham that includes old orchards, nurseries and small holdings. Consequently, the built form in the area is low density and dispersed in nature, having its own distinct landscape character and is a valued landscape. Like large parts of Cheltenham the site and its surroundings are experienced in the context of the rising Cotswold escarpment. Therefore, despite its semi-derelict condition, the site due to its openness does have a local aesthetic value, and this has been evidenced by the representations both in writing and during the Inquiry from local residents.' The implication of this is that just because the site is semi-derelict does not make it a brown field site. As a nursery it has been in agricultural use and remains agricultural land. It can continue to be used for agriculture or as open uncultivated land, and as such it is in keeping with and contributes to the quality of the semi-rural landscape.

Inspector Bridgwater in paragraphs 19 of the Appeal Decision notes that: 'The site is generally contained by existing screening boundary vegetation/hedgerows and trees within and around the site. The key exception to this is from the public footpath to the north of the site which allows extensive views into and across the site, which is not significantly reduced by the layering effect of the intervening landscape and vegetation'. In paragraph 20, he notes that 'whilst views from Lotts Meadow into the site would be filtered by a combination of increased boundary planting and layers of established vegetation, the upper storeys and roofscapes of the development would be highly visible due the cumulative effect of the height and overall scale of the proposal.'

These issues still apply to the current application. It is virtually impossible to hide the upper storeys and roofs and this is why the Parish Council suggested that the only type of development that could be acceptable in the location is one where any upper storeys and roofs look like part of a farmstead and in keeping with the semi-rural character. As was briefly discussed between the Parish Council and Inspector Bridgwater at the Appeal hearing, the Parish Council has used Google Maps to investigate various layouts and sizes of farms around England that might serve as a feasible model for a community farmstead type of development. Whether, however, Inspector Bridgwater agreed that such a development might be acceptable on the site is not clear. The Parish Council also presented this concept briefly to Inspector Ord in its written submissions and verbally during

her site visits. Again, whether she felt that such a development might be acceptable on the site she did not say, but she ruled out any development on the site in her findings in July 2016.

In paragraph 21 of the Appeal Decision, Inspector Bridgwater says that: 'With regard to views from Kidnappers Lane, based on the evidence before me and my on-site observations, I consider that the upper floors and roofscape of the proposal would not be adequately contained visually. This is due to a combination of the proposed height and density of the development and the lack of screening around the entrance to the adjoining site that lies between the appeal site and Kidnappers Lane. The visual effects of the proposal would be particularly stark when travelling south towards the site entrance along Kidnappers Lane, meaning that built form along the western boundary of the appeal site would appear dominant, with screening difficult to achieve due to the intervening land being outside the appellant's control. This harmful visual effect is further accentuated by views into the site opening up due to the bend in Kidnappers Lane close to the site entrance. Moreover, the existing coniferous hedge which provides the most effective visual containment when travelling north along Kidnappers Lane is not in the appellant's control. Therefore, its continued retention for screening/containment purposes could not be guaranteed by the appellant should the development proceed. In reaching this conclusion I accept the appellant's argument that the proposed dwellings around the site entrance could be architecturally designed to reflect the appeal site's semi-rural setting. However, this would not mitigate the overall visual harm that I have found when viewing the site from Kidnappers Lane.'

In the current application, there are still houses close to the entrance from Kidnappers Lane that would be visible. Although the application proposes planting trees along the western boundary of the site these would need substantial time to grow to a size and density to provide sufficient screening. To fully hide the roofs the trees would need to have a height of the order of 10 to 12 metres. Also in the landscape plan there are gaps between the trees through which roofs and upper storeys would be visible. The difficulty here is that the site is narrow and if enough space were provided within the site to accommodate full screening on the west side with large enough trees, it would not leave sufficient space for houses on both sides of the road. The key problem remains that the land to the west of the site and its screening hedges are outside the applicants' control. A further problem is that the screening hedges are old and deteriorating quite badly along Kidnappers Lane.

In paragraph 22 of the Appeal Decision, Inspector Bridgwater says: 'With regard to the northern site boundary, I have carefully considered the appellant's proposed structural planting/landscaping within the appeal site boundary. However, it is highly likely given the constraints of the site that the proposed planting would be in close proximity to the proposed built form. This would be likely to diminish the effectiveness of the screen planting when viewed from the public footpath to the north. Furthermore, the paddocks/fields that separate the appeal site from the public footpath to the north are not in the appellant's control and therefore the limited layered screening function that they currently provide cannot be relied upon to supplement the on-site boundary planting. Therefore, I am not persuaded that the proposed structural planting/landscaping would adequately mitigate the urbanising visual effects of the proposal. Consequently, the proposal would have its most significant and harmful effect when viewed from the public footpath to the north of the appeal site.'

The current application proposes planting trees along the north boundary of the site. However, these are right up against the proposed housing and they would need to be large and have had time to reach sufficient height to provide screening. However screening trees would still not provide a solution to the problem of the damage to the view from the footpath. Table 1 below shows that even if the houses proposed at the north of the site were 1.5 storey with a maximum roof height of only 7 metres they would still block 57% to 60% of the height of the scarp of the Hill. A 7 metre high roof in the middle of the site would

still block 42% of the height of the Hill including blocking the view of Leckhampton Manor. The situation for 2 storey houses would obviously be still worse because of their higher roofs and upper storeys.

Altitude above footpath eye-level (metres) Distance from footpath (metres) Gradient of elevation Projected height up Leckhampton Hill as viewed

North boundary of site ground level	0 95	0.000	0%
7m high roof 5m from north boundary	7 100	0.070	60%
7m high roof 11m from boundary	7 106	0.066	57%
7m high roof in the middle of the site	9 185	0.049	42%
7m high roof at south end of the site	11 275	0.040	34%
Leckhampton Manor ground level	35 925	0.038	33%
Top of Leckhampton Hill	212 1825	0.116	100%

Table 1: Extent to which 1.5 storey houses with the floor plan and location shown in the application would block the view of Leckhampton Hill and of Leckhampton Manor from the public footpath north of the site. For example: a 7 metre high roof at the north of the site would obscure the lower 57% to 60% of the Hill; a 7 metre high roof in the middle of the site would obscure the lower 42% of the Hill including most of Leckhampton Manor. There would of course be gaps between houses and between trees through which lower land could be glimpsed, but nevertheless the existing open view would be greatly impaired.

The view from the footpath is one of the finest views of the Hill, particularly because of the foreground and the features on the scarp including Leckhampton Manor. So development on the northern and central parts of the site, even if the houses were limited to 1.5 storeys, would cause unacceptable damage to the view from the footpath and to the valued landscape. However, development just in the north-east corner of the site would be acceptable because it is not in line with the view of the Hill and could be fully screened. The same would probably also apply to land north and south of the north-east corner. This land is not part of the application site but is part of the 3.2 hectare ON area that the Parish Council excluded from the proposed Local Green Space.

Development of a suitably rural character in the southern part of the site might also be acceptable provided the roof heights were kept sufficiently low. However, at the south end of the site there would be the issue of the impact on the view from Kidnappers Lane, as noted by Inspector Bridgwater.

In conclusion, the Parish Council believes that:

1. Because of the vital need for effective screening by hedges and tall trees including thickening up of the existing hedges on all sides, no development on the site is feasible before 2040, even assuming that agreement could be reached with Miller Homes to plant the necessary screening straight away.
2. The whole of area ON that includes this site and the other adjacent orchards and nurseries to the east, west and north needs to be covered by a masterplan that provides the necessary quality of screening and also ensures that it is maintained and preserved in perpetuity.
3. Whether or not any development is feasible on this site even post 2040 is unclear but certainly any development must be of a community farmstead character that looks rural as viewed from Leckhampton Hill and from the valued landscape surrounding the site and is sufficiently softened by tree screening.

4. How to avoid unacceptable damage to the view towards Leckhampton Hill is a major constraint on development on the site. Screening with trees on the northern boundary of the site is not sufficient because of the extent to which trees and roofs would block the view of the Hill from the footpath. Development would be acceptable in the north-east corner of the site if well screened because it would not be in line with the view of Leckhampton Hill. Development might possibly be acceptable near the south end of the site. But development elsewhere on the site would cause unacceptable damage to the valued landscape.

Table 2: The 47 viewpoints identified in the tourist information in the AA 4 miles:inch and 3 miles:inch Road Atlases of Great Britain. 30 in England, 6 in Wales and 11 in Scotland

Dunkery Beacon
Exmoor, Somerset
Wellington Monument Blackdown Hills, Somerset
Bulbarrow Hill Dorset
Pepperbox Hill Hants
Bernbridge Down Isle of Wight
Dunction Hill, South Downs W Sussex
Epsom Down, North Downs Surrey
Foel Eryr Pembrokeshire
Sugar Loaf Black Mts., Monmouthshire
Portishead Severn Estuary, N. Somerset
Symonds Yat Rock Gloucestershire
Robinswood Hill Gloucestershire
Barrow Wake Gloucestershire
Leckhampton Hill Gloucestershire
Barbary Castle Marlborough Downs, Wiltshire
Magpie Hill Warwickshire
Wittenham Clumps Oxfordshire
One Tree Hill Essex
Town Hill Powys
Clee Hill Shropshire
Central Forest Park C. Stoke
Clent Hills Worcestershire
Windmill Hill Worcestershire
Barr Beacon Birmingham
Beacon Hill Leicestershire
South Stack Anglesey
Great Orme Head Conwy
Waun-y-Llyn Flintshire
Mersey View Cheshire
Werneth Low Derbyshire
Holme Moss Peak District, Derbyshire
Hathersage Booths Peak District, Derbyshire
Highoredishy Derbyshire
Sutton Bank Yorkshire Moors, N Yorkshire
Hole of Horcam Yorkshire Moors, N Yorkshire
Queen's View E. Dunbartonshire
Cockleroy W. Lothian
Scott's View Eildon Hills, Border
Carter Bar Cheviot Hills, Border
Ros Castle Northumberland
Queen Elizabeth Forest Park Stirling
Queen's View, Loch Tummel Perth and Kinross
Blackford Hill Edinburgh
Bealach-Na-Ba Highlands
Glen Garry Highlands

Struie Hill Highlands
Knockon Cliff Highlands

26th March 2019 - The Council strongly objects to the application on the following grounds:

This application is a revised version of the application 16/00202/OUT that was submitted by the applicants in 2016. That application was refused by CBC and the subsequent appeal by Robert Hitchins (reference APP/B1605/W/17/3178952) was also dismissed on 4 April 2018. The revised application has sought to address some of the reasons that the first application was rejected but it provides little improvement over its predecessor.

The site is surrounded by valued landscape and the impact of any development on the valued landscape is one key issue. Secondly the site is in the middle of a semi-rural area that is also proposed for designation as a Local Green Space in the emerging Cheltenham Plan. Thirdly, the site is close to Leckhampton Hill and very visible from the Hill. Its impact on this view is a key issue.

The Parish Council had discussions with Robert Hitchins in 2015 and 2016 on what sort of development might be feasible on this site. The discussion included both the 2016 application for 45 dwellings and also a less dense development of around 25 dwellings, much as proposed in the current application. In both cases the Parish Council made clear that neither development was feasible because the estate character conflicted with the semi-rural surroundings. The Council advised Robert Hitchins that in its view the only development that could possibly be supportable would be some form of community farmstead, similar to Leckhampton Farm Court on Farm Lane. The key features that make Leckhampton Farm Court fit successfully into the landscape are that it is a converted farm and farm yard and that it is moderately well screened by high trees along Hatherley Brook and on its south side facing Leckhampton Hill.

Impact on the view from Leckhampton Hill

Leckhampton Hill is a nationally important viewpoint, one of only 30 viewpoints in England identified in the AA 3 miles to the inch and 4 miles to the inch road atlas of Great Britain and one of only 46 viewpoints in the whole of Great Britain. These are viewpoints with outstanding views that are also within reasonably easy reach of a road. In the case of Leckhampton Hill, the beauty of the view derives partly from its breadth, landscape diversity and the very long distance that can be seen in many directions, and also from the attractiveness and interest of Cheltenham in the mid-foreground and of the semi-rural landscape of the Leckhampton Fields in the immediate foreground. There are many excellent views along the Cotswold Scarp but what so distinguishes Leckhampton Hill is the rich combination of features and the absence of ugly features that undermine other viewpoints. Conserving the beauty of the foreground is very important to the view; it is not just the distant hills and mountains that matter.

In paragraph 24 of the 2018 Appeal Decision, Inspector Bridgwater says:
'With regard to landscape character, I have carefully considered the detailed submissions of the appellant. However, I consider that the proposed development (up to 45 dwellings) would appear as an island of dense development, visually divorced from the urban edge of Cheltenham. This would be in stark contrast to the dispersed semi-rural settlement pattern of the locality. Furthermore, the likely introduction of an engineered vehicular access and footways would increase the presence of an incongruous suburban type development in a semi-rural area. Moreover, this effect would be particularly prominent when viewed from Leckhampton Hill where the semi-rural landscape can be fully appreciated. As such, the proposal would result in material harm to the landscape character of the area.'

The reduction from 45 dwellings to 25 dwellings would still leave this as an island of fairly dense development in the context of the semi-rural area and the slight curving of the road

through the development does not alter the fact that viewed from Leckhampton Hill the development would clearly be a semi-urban estate. It would not have the appearance of a rural hamlet.

Impact on the valued landscape

The adverse impact of development on the valued landscape is well covered by Inspector Bridgwater in the Appeal Decision. In paragraph 23 he says: 'the cumulative visual effects of the proposal would result in an incongruous and permanently harmful visual effect, which would materially harm the character and appearance of the area.'

In paragraph 18 he says: 'Kidnappers Lane and the area in the vicinity of the (appeal) site are semi-rural in character. As such, the site is a component part of a mosaic of rural and settled features at the edge of the main settlement area of Cheltenham that includes old orchards, nurseries and small holdings. Consequently, the built form in the area is low density and dispersed in nature, having its own distinct landscape character and is a valued landscape. Like large parts of Cheltenham the site and its surroundings are experienced in the context of the rising Cotswold escarpment. Therefore, despite its semi-derelict condition, the site due to its openness does have a local aesthetic value, and this has been evidenced by the representations both in writing and during the Inquiry from local residents.'

Inspector Bridgwater in paragraphs 19 of the Appeal Decision notes that: 'The site is generally contained by existing screening boundary vegetation/hedgerows and trees within and around the site. The key exception to this is from the public footpath to the north of the site which allows extensive views into and across the site, which is not significantly reduced by the layering effect of the intervening landscape and vegetation'. In paragraph 20, he notes that 'whilst views from Lotts Meadow into the site would be filtered by a combination of increased boundary planting and layers of established vegetation, the upper storeys and roofscapes of the development would be highly visible due the cumulative effect of the height and overall scale of the proposal.'

These issues still apply to the current application. It is impossible to hide the upper storeys and roofscapes and this is why the Parish Council advised that the only type of development that could be acceptable in the location is one where any upper storeys and roofscapes looked like part of a farmstead. As was briefly discussed between the Parish Council and Inspector Bridgwater at the Appeal hearing, the Parish Council has used Google Maps to investigate various layouts and sizes of farms around England that might serve as a feasible model for a community farmstead type of development. Whether, however, Inspector Bridgwater agreed that such a development might be acceptable on the site is not clear. The Parish Council also presented this concept to Inspector Ord in its written submissions and verbally during her site visits. Again, whether she felt that such a development might be acceptable on the site she did not say but she ruled out any development on the site in her findings in July 2016.

In paragraph 21 of the Appeal Decision, Inspector Bridgwater says that: 'With regard to views from Kidnappers Lane, based on the evidence before me and my on-site observations, I consider that the upper floors and roofscape of the proposal would not be adequately contained visually. This is due to a combination of the proposed height and density of the development and the lack of screening around the entrance to the adjoining site that lies between the appeal site and Kidnappers Lane. The visual effects of the proposal would be particularly stark when travelling south towards the site entrance along Kidnappers Lane, meaning that built form along the western boundary of the appeal site would appear dominant, with screening difficult to achieve due to the intervening land being outside the appellant's control. This harmful visual effect is further accentuated by views into the site opening up due to the bend in Kidnappers Lane close to the site entrance. Moreover, the existing coniferous hedge which provides the most effective visual

containment when travelling north along Kidnappers Lane is not in the appellant's control. Therefore, its continued retention for screening/containment purposes could not be guaranteed by the appellant should the development proceed. In reaching this conclusion I accept the appellant's argument that the proposed dwellings around the site entrance could be architecturally designed to reflect the appeal site's semi-rural setting. However, this would not mitigate the overall visual harm that I have found when viewing the site from Kidnappers Lane.'

In the current application, there are still houses close to the entrance from Kidnappers Lane that would be visible. Although the application proposes planting trees along the western boundary of the site these are not of a size or density to provide enough screening of the rest of the site from Kidnappers Lane and again they would need to be of sufficient height and sufficient maturity. The problem remains that the land to the west of the site and its screening hedges are outside the applicants' control.

In paragraph 22 of the Appeal Decision, Inspector Bridgwater says: 'With regard to the northern site boundary, I have carefully considered the appellant's proposed structural planting/landscaping within the appeal site boundary. However, it is highly likely given the constraints of the site that the proposed planting would be in close proximity to the proposed built form. This would be likely to diminish the effectiveness of the screen planting when viewed from the public footpath to the north. Furthermore, the paddocks/fields that separate the appeal site from the public footpath to the north are not in the appellant's control and therefore the limited layered screening function that they currently provide cannot be relied upon to supplement the on-site boundary planting. Therefore, I am not persuaded that the proposed structural planting/landscaping would adequately mitigate the urbanising visual effects of the proposal. Consequently, the proposal would have its most significant and harmful effect when viewed from the public footpath to the north of the appeal site.'

The current application proposes planting trees along the north boundary of the site. However, these are right up against the proposed housing and they would need to be large and have had time to reach sufficient height to provide screening. It is possible that effective screening from the footpath might be achieved by extending the hedge along the south boundary of the field area immediately south of the footpath. This hedge currently screens the north-east corner of the site effectively but is too low in height and of the wrong character to screen the rest of the site. More fruit trees could also be planted in the orchard just south of this hedge, which again would be sufficiently close to the footpath and distant from the site to provide screening. In this way the buildings might be screened whilst retaining the higher view including Leckhampton Hill itself. Leckhampton Manor is an important constituent of this view and the screening would need to be engineered in height so as not to block this. However, to provide this screening it would take time for the hedges and trees to grow sufficiently. Furthermore, as Inspector Bridgwater noted, the appellants do not control this land where the screening needs to be planted. So any development on the site except in the north-east corner requires substantial time for trees and hedges to grow and partnering with Miller Homes who control the land to the north and west of the site.

In conclusion, the Parish Council believes that:

1. Because of the vital need for effective screening by hedges and tall trees including thickening up of the existing hedges on all sides, no development on the site is feasible before 2040, even assuming that agreement could be reached with Miller Homes to plant the necessary screening straight away.
2. The whole of area ON that includes this site and also the other adjacent orchards and nurseries to the east, west and north needs to be covered by a masterplan to make sure

that the screening is preserved by ensuring that trees and hedges are properly conserved and protected.

3. Whether or not any development is feasible on this site even post 2040 is unclear but certainly any development must be of a community farmstead character that looks rural as viewed from Leckhampton Hill and from the valued landscape surrounding the site.

GCC Highways Planning Liaison Officer

19th March 2019 - I refer to the above outline application with all matters reserved received on 5th March 2018, submitted with application form, Planning Statement, Design & Access Statement, Transport Statement and drawing refs. LE.KL.SA.01 Rev: A, 300.P.2 Revision: A and 300.P.3 Revision: K.

History

A previous application for up to 45 dwellings at the same site (ref. 16/00202/OUT) was refused planning permission in April 2017 and subsequently was dismissed at appeal in April 2018; however the Highway Authority recommended that no highway objection be raised subject to S106 obligations and conditions being attached to any permission granted.

With respect to transport and the impact of the proposed development on the surrounding local highway network, the Planning Inspector at Paragraph 37 of the Appeal Decision stated: "There was local concern raised in relation to the potential cumulative effect of the proposed development and other developments on the capacity of the local road network, in particular on the A46 Shurdington Road.

However, based on all of the evidence before me and the observations during my site visits, I am satisfied that any increase in traffic from the proposed development would not result in severe harm to highway safety. Moreover, this is consistent with the Highways Authority who raised no objection in relation to capacity or highway safety."

Vehicular Trip Generation

The proposed development will generate 16 vehicle movements in the AM peak period and 17 in the PM peak respectively. This level of trip generation generated by and attracted to the proposed development will not have a severe impact on the transport network.

Opportunities for Sustainable Transport Modes

The applicant has agreed to provide a new footway and enhancements to street lighting on Kidnappers Lane between the proposed site access and site and the existing footway that terminates to the north of Vineries Close, approximately 260m in length.

Recommendation

The National Planning Policy Framework (NPPF) states at paragraph 109 that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe". The Highway Authority considers that this development will not have a severe impact on the local highway network. The NPPF also states that "safe and suitable access to the site can be achieved for all users", "appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location", and that "any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree". It is considered that the development proposals will meet these criteria. The Highway Authority recommends that no highway objection be raised subject to the following conditions being attached to any permission granted:

Condition #1 Vehicle Access Location

Means of vehicular access to the development hereby permitted shall be from Kidnappers Lane only.

Reason: - To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #2 Visibility

The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 53m to the left and 53m to the right (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level.

Reason: - To avoid an unacceptable impact on highway safety by ensuring that adequate visibility is provided and maintained to ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians is provided in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #3 Junction Completion

The development hereby permitted shall not be occupied until the first 20m of the proposed access road, including the junction with the existing public road and associated visibility splays, shall be completed to at least binder course level.

Reason: - To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #4 Layout

Details of the layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out in accordance with the approved plans. No dwelling on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public Highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.

Reason: - To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #5 Parking & Turning

The details to be submitted for the approval of reserved matters shall include vehicular access, parking and turning facilities within the site, and the building(s) hereby permitted shall not be occupied until those facilities have been provided in accordance with the approved plans and shall be maintained available for those purposes for the duration of the development.

Reason: - To ensure that a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians is provided in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #6 Electric Charging Facilities

The construction of the car parking associated with each building within the development (including garages and car ports where proposed) shall be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Reason: - To ensure that the development incorporates facilities for charging plug-in and other ultra-low emission vehicles in accordance with paragraph 110 of the National Planning Policy Framework.

Condition #7 Cycle Storage

The development hereby permitted shall not be occupied until a minimum of 1 no. cycle storage facility per dwelling has been provided and those facilities shall be maintained for the duration of the development.

Reason: - To give priority to cycle movements by ensuring that adequate cycle parking is provided, to promote cycle use and to ensure that the appropriate opportunities for sustainable transport modes have been taken up in accordance with paragraph 108 of the National Planning Policy Framework.

Condition #8 Pedestrian Footway

Prior to commencement of the development hereby permitted, details of a new 2.0m footway between the site access off Farm Lane and the existing footway on Farm Lane near to the junction of Vineries Close shall be submitted to and approved in writing by the Local Planning Authority and the approved footway shall be provided prior to first occupation and maintained as such thereafter unless and until adopted as highway maintainable at public expense.

Reason: - To ensure that safe and suitable access to the site can be achieved for all users and that the priority is first given to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second - so far as possible - to facilitating access to high quality public transport, in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #9 Estate Roads

No building on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.

Reason: - To minimise hazards and inconvenience for users of the development by ensuring that there is a safe, suitable and secure means of access for all people that minimises the scope for conflict between traffic and cyclists and pedestrians in accordance with paragraphs 108 and 110 of the National Planning Policy Framework.

Condition #10 Estate Roads Maintenance

Prior to occupation of the proposed development hereby permitted details of the proposed arrangements for future management and maintenance of the proposed streets within the development shall be submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

Reason: - To ensure that safe, suitable and secure access is achieved and maintained for all people that minimises the scope for conflict between traffic and cyclists and pedestrians in accordance with paragraph 108 and 110 the National Planning Policy Framework and to establish and maintain a strong sense of place to create attractive and comfortable places to live, work and visit as required by paragraph 127 of the Framework.

Condition #11 Fire Hydrants

No above ground works shall commence on site until a scheme has been submitted to, and agreed in writing by the Council, for the provision of fire hydrants (served by mains water supply) and no dwelling shall be occupied until the hydrant serving that property has been provided to the satisfaction of the Council.

Reason: - To ensure adequate water infrastructure provision is made on site for the local fire service to access and tackle any property fire in accordance with paragraph 110 of the National Planning Policy Framework.

Condition #12 Construction Method Statement

Throughout the construction period of the development hereby permitted provision shall be within the site that is sufficient to accommodate the likely demand generated for the following:

- i. parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. provide for wheel washing facilities

Reason: - To reduce the potential impact on the public highway and accommodate the efficient delivery of goods in accordance with paragraph 110 of the National Planning Policy Framework.

Informatives:

Note I: The proposed development will involve works to be carried out on the public highway and the applicant/developer is required to enter into a legally binding highway works agreement (including appropriate bond) with the County Council before commencing those works.

Note II: You are advised to contact Amey Gloucestershire 08000 514 514 to discuss whether your development will require traffic management measures on the public highway.

Note III: The developer will be expected to meet the full costs of supplying and installing the associated infrastructure.

Note IV: The applicant/developer is advised that to discharge condition #10 that the Local Planning Authority requires a copy of a completed dedication agreement between the applicant/developer and the Local Highway Authority or the constitution and details of a private managements and maintenance company confirming funding, management and maintenance regimes.

Statement of Due Regard

Consideration has been given as to whether any inequality and community impact will be created by the transport and highway impacts of the proposed development. It is considered that no inequality is caused to those people who had previously utilised those

sections of the existing transport network that are likely to be impacted on by the proposed development.

It is considered that the following protected groups will not be affected by the transport impacts of the proposed development: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, other groups (such as long term unemployed), social-economically deprived groups, community cohesion, and human rights.

Environmental Health

25th March 2019 - I have no adverse comments to make regarding this application for outline permission for the residential development of up to 25 dwellings, associated infrastructure, open space and landscaping, with creation of new vehicular access from Kidnappers Lane. Any concerns can be picked up during the reserved matters stage.

Severn Trent Water Ltd

7th March 2019 -

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Please note if you wish to respond to this email please send it to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternately you can call the office on 01902 793851.

If your query is regarding drainage proposals, please email to the aforementioned email address and mark for the attention of Rhiannon Thomas (Planning Liaison Technician).

Land Drainage Officer

26th March 2019 - No objection subject to the implementation of the submitted drainage strategy and approval of a detailed sustainable drainage design. Conditions recommended by the Gloucestershire SuDS Group attached.

Joint Waste Team

11th March 2019 - Comments available to view in documents tab

Gloucestershire Centre For Environmental Records

19th March 2019 - Report in documents tab

County Archaeology

4th March 2019 - Thank you for consulting me concerning the above planning application. I wish to make the following observations regarding the archaeological implications of this scheme.

I note that this planning application is supported by an Historic Environment Desk Based Assessment (CGMS Heritage, November 2018). This confirms that in connection with a previous planning application (16/00202/OUT) made for development on this land an archaeological field evaluation was undertaken (Rubicon Heritage, April 2016). The field evaluation comprised the excavation of nine trial-trenches which revealed no evidence for any significant archaeological remains.

On the evidence of the archaeological field evaluation undertaken in 2016 it is my view that the application site has low potential to contain any significant archaeological remains. I therefore recommend that no further archaeological investigation or recording should be required in connection with this scheme.

I have no further observations.

GCC Local Flood Authority (LLFA)

27th March 2019 - I write with reference to the above mentioned application received by the Lead Local Flood Authority (LLFA) on 4th March 2019 for comment on the management of surface water.

I acknowledge that the proposed development is located on the site of an existing garden nursery and is situated in Flood Zone 1. I can also confirm that the LLFA is not aware of any flood reports on the site from surface water.

In the submitted 'Flood Risk Assessment and Drainage Strategy' the applicant confirms that soakaway tests have not been carried out, but suggests that the underlying clay soils are unlikely to support the use of infiltration and therefore the use of SuDS in the form of infiltration drainage has been ruled out for this site. The LLFA would recommend that infiltration testing in accordance with BRE 365 should be carried out in order to substantiate the dismissal of infiltration SuDS at this location.

The applicant is proposing to attenuate surface water up to and including the 1 in 100 year storm event plus 40% climate change to an attenuation pond in the north east of the site. The surface water would be discharged to an existing ditch system to the north of the site, which then discharges into the Hatherley Brook. The proposed surface water discharge rate from the attenuation pond is stated will be limited at 5 l/s for all events up to and including the 1 in 100 year storm event plus climate change. As this is a previously developed site, in accordance with the non-statutory technical standards, peak runoff rates for all events up to the 1 in 100 year storm should be as close as reasonably practicable to the greenfield runoff rate or provide 40% betterment on the existing predevelopment runoff rates. Section 4.4 of the 'Flood Risk

Assessment and Drainage Strategy' states that existing runoff rates for Q_{bar} are 4.8l/s and Q_1 are 4.0l/s, however the proposed attenuation pond is designed to discharge at 5l/s. The applicant suggests this is because discharge rates cannot be restricted below 5l/s due to risk of blockage. Please note, however, the LLFA does not recommend that restricted rates cannot be lower than 5l/s and suggests the applicant should be required to limit discharge in accordance with the non-statutory technical standards.

Finally, for consistency, the applicant should note that page 27 of the FRA part 2 refers to 30% climate change, this should be corrected to 40% in order to be consistent with the rest of the application and supporting documents. Also, page 32 of the FRA part 2 (section 5.8) refers to the 100 year design life running to 2115, please note this should be corrected accordingly.

The LLFA has no objection in principle to the proposed drainage strategy but recommends that the below condition is applied to any subsequent permission.

Condition: No development shall commence on site until a detailed Sustainable Drainage System (SuDS) Strategy document has been provided for approval by the Local Planning

Authority, this should be in accordance with the proposal set out in the applicant's submission

(Flood Risk Assessment and Drainage Strategy - January 2019) and address the specific concerns raised by the Lead Local Flood Authority in the letter dated 27th March 2019. The SuDS Strategy must include a detailed design, maintenance schedule, confirmation of the management arrangements and a timetable for implementation. The SuDS Strategy must also demonstrate the technical feasibility/viability of the drainage system through the use of SuDS to manage the flood risk to the site and elsewhere and the measures taken to manage the water quality for the life time of the development. The scheme for the surface water drainage shall be carried out in accordance with the approved details before the development is first put in to use/occupied.

Reason: To ensure the development is provided with a satisfactory means of drainage and thereby preventing the risk of flooding. It is important that these details are agreed prior to the commencement of development as any works on site could have implications for drainage, flood risk and water quality in the locality.

NOTE 1: The Lead Local Flood Authority (LLFA) will give consideration to how the proposed sustainable drainage system can incorporate measures to help protect water quality, however pollution control is the responsibility of the Environment Agency

NOTE 2 : Future management of Sustainable Drainage Systems is a matter that will be dealt with by the Local Planning Authority and has not, therefore, been considered by the LLFA.

NOTE 3: Any revised documentation will only be considered by the LLFA when resubmitted through suds@gloucestershire.gov.uk e-mail address. Please quote the planning application number in the subject field.

26th March 2019 - This is to advise you that the LLFA are currently considering this application - apologies that we have missed the 25th March deadline. We will endeavor to get a response to you in the next couple of days.

Historic England

12th March 2019 - Thank you for your letter of 4 March 2019 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

Tree Officer

26th March 2019 - The CBC Tree Section does not object to this application in principal. The only tree of significant merit is the old oak (T2) in the NW corner (just off site). The proposed suds pond should not have a negative impact on water availability to this tree's roots. However care should be taken not to destroy the current soil profile during construction. A method statement for the construction of this area should be submitted as a part of any permission granted. Experience has shown that this area where the 'open space' is to be located is very wet/boggy and it is not clear how effective a place of public leisure it would be.

It is disappointing to note that the semi mature Bhutan pine in the middle of the site has now been removed. This tree was well established and could have formed an interesting arboricultural landmark on any future development.

There are no other trees of significant arb value on site.

However it is noted that there is a golden cypress hedge (H3) on the boundary to the south of the site. This is a large fast growing species which casts dense shade. It is not a native species and supports little/no wildlife other than as a good site for nest building. Should this development be allowed, it is important that this hedge is entirely removed and replaced with a more suitable boundary hedge species. If left, this hedge would grow very large very quickly and being south of the site would cast dense shade on the proposed gardens to the north.

Similarly H1 to the east of the entrance needs to be actively managed. It is a rich habitat but could become derelict if not selectively thinned and pruned.

Contaminated Land Officer

25th March 2019 - The application seeks to develop a site that has until recently been a commercial plant nursery. Previous uses have included a "pump house". I would therefore recommend that conditions on the following lines are added to any permission for development:

1. Site investigation, risk assessment and remediation scheme

Prior to the commencement of development a site investigation and risk assessment shall be carried out to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11 and shall include:

- a) a survey of the extent, scale and nature of contamination
- b) an assessment of the potential risks to:
 - human health
 - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
 - adjoining land
 - ecological systems
 - groundwaters and surface water
 - archaeological sites and ancient monuments
- c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.

Where remediation is required, a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.

The site investigation, risk assessment report, and proposed remediation scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Plan Policy NE4 relating to development on contaminated land.

2. Implementation of remediation scheme

Prior to the commencement of development, other than that necessary to comply with the requirements of this condition, the approved remediation scheme necessary to bring the site to a condition suitable for the intended use shall be implemented in full. Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Plan Policy NE4 relating to development on contaminated land.

3. Unexpected contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11 and a remediation scheme, where necessary, also submitted. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the Local Planning Authority before development can recommence on the part of the site identified as having unexpected contamination.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Local Plan Policy NE4 relating to development on contaminated land.

4. Monitoring and maintenance

A monitoring and maintenance scheme to include monitoring the long term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Natural England

2nd May 2019 - I am sorry for the delay responding formally. Before I do so please can you let me know if a Habitats Regulations Assessment has been done (or is in preparation) for the development? I have checked the ecological assessment by Ecology Solutions and the submitted Planning Statement (s106 heads of terms includes reference to open space so this could form part of HRA thought process) but neither refer to the issue of recreation pressure on the Cotswold Beechwoods Special Area of Conservation (SAC).

4th September 2019

Thank you for your consultation on the above dated 03 July 2019 which was received by Natural England on the same day. We are sorry for the delay replying. Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of the Cotswold Beechwoods Special Area of Conservation
- damage or destroy the interest features for which Cotswold Commons and Beechwoods Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures¹ are required / or the following mitigation options should be secured:

- On site open space.
- Provision of suitable education and awareness raising material in the form of a 'homeowner information pack' in order to describe local recreation resources (off site open and greenspace) and the sensitivities of designated sites nearby including the Cotswold Beechwoods SAC.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Further advice on mitigation

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Cotswold Commons and Beechwoods SSSI

Our advice above relating to mitigation measures for the Cotswold Beechwoods SAC applies similarly to this SSSI.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

Cheltenham Civic Society

22nd March 2019 - This should be an exemplary development in contrast to the neighbouring developments.

In particular, the Planning Forum would like to see greater demonstration of sustainability on this site, for example alternative energy schemes, water recycling. The Planning Forum

notes the green spaces which are central to this design and requests that they are accompanied by a maintenance plan.

We appreciate that this is only an outline application and the layout is only illustrative, but the plan proposed appears to be a very suburban layout, despite the semi-rural setting. A more rural design would sit better in the landscape.

Because these plans are at a very early stage, this is the ideal time for the developers to engage with the Civic Society. This could form the basis of much-needed interaction between the Planning Forum, the developers and CBC planning to aid in producing an exemplary plan prior to a full planning application being submitted.

With this in mind, it would be helpful if the Planning Forum could meet with the eventual developers prior to the full application.

5. PUBLICITY AND REPRESENTATIONS

Total comments received	44
Number of objections	31
Number of supporting	1
General comment	2

5.1 The application was submitted in February 2019 and was advertised by way of letters being sent to neighbouring properties, sites notices being displayed and an advert placed in the Echo.

5.2 In response 31 letters of objection have been received. These objections are summaries as follows:

- Premature in advance of the secondary school application
- Highway safety/congestion
- No public transport
- Impact on Air quality
- Flooding
- Impact of local green space
- Loss of locally valued land
- Site is isolated from amenities
- Loss of wildlife
- Piecemeal development
- Previous appeal decision still stands
- Lack of facilities in the area
- Visual impact on the landscape and Area of outstanding natural beauty

6. COMMENTS

6.1 Determining Issues

6.1.1 The main considerations when determining this application for outline planning permission relate to the principle of developing the site for housing; access and highway safety; trees and landscaping; design and layout; drainage and flooding; wildlife and biodiversity; impact on neighbouring amenity; and affordable housing and other planning obligations.

6.2 Policy Principle/Context

6.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions should be taken in accordance with the relevant adopted Development Plan unless material considerations dictate otherwise.

6.2.2 *Paragraph 11 of the NPPF sets out a 'presumption in favour of sustainable development' which in decision making means:*

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *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:*
 - *the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposal; or*
 - *and adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*

6.2.3 The development plan comprises saved policies of the Cheltenham Borough Local Plan Second Review 2006 (LP) wherein those policies are consistent with the NPPF; and adopted policies of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS).

6.2.4 Material considerations include the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG), and the emerging Cheltenham Plan (eCP) which is now at an advanced stage of preparation.

6.2.5 The NPPF states that the presumption in favour of sustainable development should be a golden thread running through both plan making and decision taking (paragraph 11). This presumption in favour of sustainable development places the development plan as the starting point for decision making (paragraph 12). However the NPPF also aims to ensure that significant weight is placed on the need to 'support economic growth and productivity' (paragraph 80).

6.2.6 Policy SD10 of the JCS seeks to direct residential development to appropriate locations within the JCS area. It sets out that within the JCS area new housing will be planned in order to deliver the scale and distribution of housing development as set out in policies SP1 and SP2 of the JCS, and that housing development will be permitted at sites allocated for housing through the development plan, including strategic allocations and allocations in district and neighbourhood plans. On site not allocated dwellings will be permitted on previously developed land in the existing build up areas for Cheltenham the Principal Urban Area.

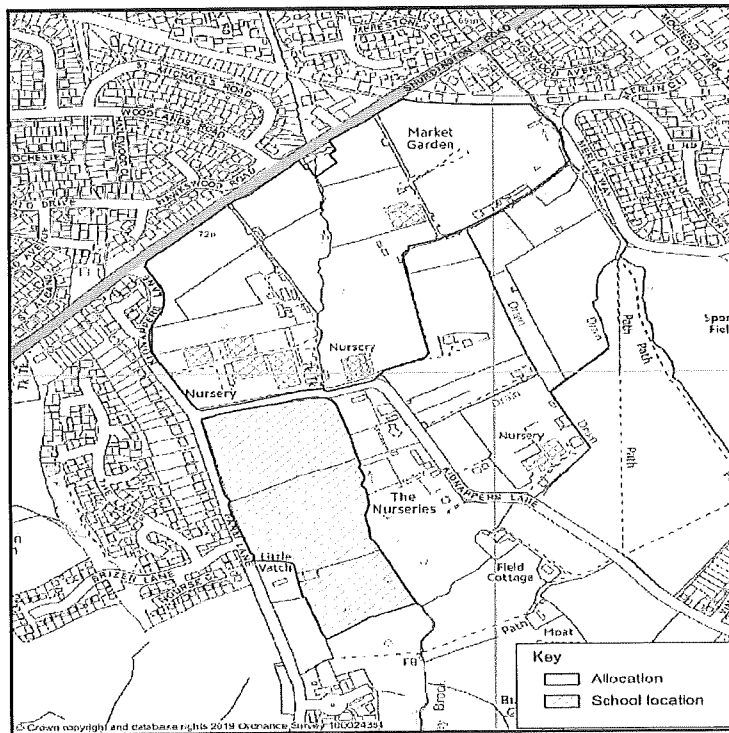
- 6.2.7** As at the time of writing, Cheltenham Borough Council cannot currently demonstrate a five-year supply of housing land with the latest figure (August 2018) at 4.6 years. The proposal would provide for 25 additional dwellings which would make a contribution towards alleviating the shortfall. Paragraph 11(d) of the NPPF (the titled balance) would therefore be engaged.
- 6.2.8** Policy Context
- 6.2.9** Joint Core Strategy - A Leckhampton Strategic Allocation formed part of the JCS pre-submission document in 2014. However the Inspector indicated at paragraph 123 of her Interim Findings that in her 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 the reasons of landscape/visual amenity and highway impact, I recommend that the Cheltenham part of the site be allocated for a modest level of built development."
- 6.2.10** Whilst the proposed site is not located within the Greenbelt or the Cotswold Area of Outstanding Natural Beauty, it is close to the AONB. The JCS Inspector agreed with Natural England's view that this area forms part of the setting of the AONB and contributes positively to its special qualities. Therefore any impact upon the landscape is a significant consideration.
- 6.2.11** The Inspector clarified her position further in her note of recommendations made at the JCS hearing session 21st July 2016; *"I therefore recommend that the build environment be contained within the green, less sensitive areas of the Landscape and Visual Sensitivity plan towards the north."*
- 6.2.12** The emerging Cheltenham Local Plan is currently at the Main Modification stage. For the emerging Local Plan the Inspector in the Post Hearing Advice note on matters of Local Green Space states the *'Leckhampton Fields is an attractive rural area at the foreground of the Cotswold AONB, and valued by local residents for its public footpaths, wildlife and tranquillity. However, there is no evidence that the particular features of this area of countryside are so special as to justify its long term protection as an extensive area of LGS. In view of the proposals for large scale residential development within the Leckhampton area, I agree with the Inspector at the JCS examination that an area of LGS would be justified. However, the boundaries fall to be determined through the CP, and the area selected must accord with national policy and advice. I consider that the area of 39.31ha as currently proposed is not justified, and that a new assessment is required to identify an area which would meet the criteria in the NPPF and PPG. LGS proposed within the Leckhampton area will be needed to serve existing and new residential development.'*
- 6.2.13** The Main Modifications to the emerging local plan has reflected the comments provided by the Inspector with the allocation MD5 'Leckhampton' increasing the numbers of housing from 250 dwelling to 350 dwellings, and increasing the size of the allocation area to including an area of land to the south of Kidnappers Lane for the provision of a school.
- 6.2.14** Full Council unanimously voted in favour of consulting on the Main Modifications to the Cheltenham Plan at its meeting on the 14th October 2019. It is now anticipated that public consultation on the Main Modification will take place during November/December with submission of the consultation responses and final proposed Cheltenham Plan to the Planning Inspector towards the end of December.
- 6.2.15** Mixed use allocation Policy MD5 of the Emerging Local Plan sets out:

'Originally a JCS site, development at this location will need to take into account landscape impacts, highways issues and green space. Site boundaries are based on the JCS

Inspector's comments in her Note of Recommendations from 21 July 2016. Development at this location will need to ensure that the JCS examination's consideration and findings related to this site are fully taken into account. Along with this, the site has an extensive planning history related to the earlier, larger proposal (13/01605/OUT); the Inspector's and Secretary of State's findings in this appeal should also be reflected in any future scheme'. The policy also sets out the main Constraints of the site being: Local Green Space; Impact on AONB; Flood Risk mitigation; Highways; Heritage assets. The allocation requirements are:

- Approximately 350 dwellings on land north of Kidnappers Lane
- Provision of a secondary of school with six forms of entry on land to the south of Kidnappers Lane
- Provision of playing fields for the school on land within the designated LGS
- Safe, easy and convenient pedestrian and cycle links within the site and to key centres
- A layout and form that respects the existing urban and rural characteristics of the vicinity
- A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development
- A layout and form of development that respects the visual sensitivity and landscape character of the site as part of the setting for the AONB.

6.2.16 This site subject to this application is not located within allocation MD5:



6.2.17 This site is not located within the Principal Urban Area (PUA) of Cheltenham, it is located beyond the built up area and therefore the site is not allocated for development purposes. The proposal would therefore be in conflict with Policy SD10 of the JCS.

6.2.18 The NPPF at paragraph 11 sets out that planning decisions should apply a presumption in favour of sustainable development. This is explained in section 'd' of paragraph 11 stating that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date (footnote 7 of paragraph 11 sets out that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing) granting permission unless, for this application, any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole. Consideration on these points are included below.

6.3 Landscape Design and layout

6.3.1 Policy SD4 of the JCS and saved Local Plan policy CP7 require development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings. Policy CO1 of the Saved Local Plan sets out that in considering landscape character development will only be permitted where it would not harm; (a) the attributes and feature which make a significant contribution to the character, distinctiveness, quality and amenity value of the landscape; and (b) visual amenity of the landscape. Policy SD6 of the JCS seeks to ensure proposals seek to respect landscape character, local distinctiveness and historic landscapes and introduces the need for Landscape and Visual Impact Assessments in support of applications. Policy SD7 of the JCS seeks to protection of the AONB. These policies are considered to be consistent with the objectives of section 15 of the NPPF.

6.3.2 Matters relating to access, appearance, landscape, layout and scale are reserved for further consideration, should the principle of development be considered acceptable. Therefore there is little substantive information provided at this stage to allow considered recommendations to be provided on these points. The application is supported with an illustrative masterplan which provides an indication as to how the site could be developed. The aim of urban design intervention relates to place making with a view to helping create a pleasant and sustainable place to live that links well with and respects its immediate neighbours and wider setting.

6.3.3 In considering the Landscape and visual Matters associated with the planning application the Council employed landscape consultants to review the details of the application submitted. Ryder Landscape produced an extensive note on the landscape impact. This report considers the matters of landscape impact and includes the reviews dismissed Appeal decision Inspectors on matters of landscape dismissed appeals at this site and nearby, it's also considers a recent appeal at Oakridge, Higham which was also dismissed at appeal. The RL report is also mindful the emerging Local Plan. The RL report should be read as part of this document and is appendix 1.

6.3.4 The RL assessment sets out that the proposals are not appropriate for this location and that even though some landscape benefit may arise at the site itself this does not offset the significant landscape and visual harm that occurs in the valued landscape around the site should the development be allowed. It is recognised that the proposed number of units have been reduced from 45 units to 25 units but this does not fundamentally change the fact that this semi-rural area is the wrong location for this form of more urban residential development that remains divorced from its surroundings.

6.3.5 It is therefore considered that the submitted details, given the conclusions of the RL assessment, are not considered to satisfactorily mitigate the impact of the proposed

development in landscape grounds and therefore conflicts with the objectives of the NPPF and policies SD4, SD6 and SD7 of the adopted JCS.

- 6.3.6** It is therefore considered that on this matter it weighs against the proposal and must be assessed against the benefits of the development.

6.4 Neighbouring Amenity

- 6.4.1** Saved policy Local Plan Policy CP4 and adopted JCS policy SD14 seek to ensure that new development does not result in unacceptable harm to the amenity of adjoining land users and the locality.
- 6.4.2** The application is outline and it is considered that the site could be developed without causing undue harm in terms of daylight, privacy or outlook. Given this the application on this matter is something which does not weigh against the proposal.

6.5 Access and highway issues

- 6.5.1** Adopted JCS policy INF 1 advises that planning applications will be granted only where the impacts of the development are not severe. The policy also seeks to ensure that all new development proposals provide safe and efficient access to the highway network; and provide connections to existing walking, cycle and passenger transport networks, where appropriate. The policy reflects advice set out within Section 9 of the NPPF.
- 6.5.2** The illustrative masterplan shows a cul-de-sac form of development with access to the south via Kidnappers Lane.
- 6.5.3** The Gloucestershire County Council Highways Development Management Team (HDM) in considering the history of the site and the details submitted with the application, the full response is set out above. The conclusions and recommendation of the HDM is to provide no objection subject to conditions being attached to any permission. Given these comments on the matter of highway safety and access is something which does not weigh against the proposal.

6.6 Flooding and Drainage

- 6.6.1** Adopted JCS policy INF2 and section 14 of the NPPF seeks to ensure that new development is not inappropriately located in areas at high risk of flooding, and to ensure that development does not increase flood risk elsewhere and, where possible, contributes to a reduction in existing flood risk.
- 6.6.2** A flood risk assessment has been submitted with the application which has been reviewed by the County Council as the Lead Local Flood Authority (LLFA) responsible for managing the risk of flooding from surface water, ground water and ordinary watercourses. The LLFA comments are set out in full above. In summary the LLFA provide no objection subject to conditions being attached to any permission to deal with the matters raised in their comments. Given this the application on this matter is something which does not weigh against the proposal.

6.7 Other considerations

6.7.1 CIL and Affordable housing

- 6.7.1.1** Adopted JCS policy INF7 sets out that financial contributions towards the provision of infrastructure will be sought through the S106 and CIL mechanisms as appropriate.
- 6.7.1.2** This development would be liable for CIL (Community Infrastructure Levy). In Cheltenham the CIL rate for residential developments of between 11 and 449 dwellings is £200 per

square metre; however, there are some exceptions, for example, those parts of a development which are to be used as affordable housing.

6.7.1.3 CIL sits alongside S106 agreements, which are still used to secure site specific obligations which are needed to make a development acceptable in planning terms, particularly affordable housing.

6.7.1.4 JCS policy SD 12 seeks to ensure in Cheltenham the no strategic sites of 11 dwellings or more provide for 40% affordable housing in the scheme. The outline application is compliant with this requirement. The details of this have yet to be worked out as no S106 has been agreed at the time of preparing this report.

6.7.2 Ecology

6.7.3 The NPPF sets out that when determining planning applications local planning authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around development. Furthermore planning applications should be refused for development resulting in the loss of deterioration or irreplaceable habitats. JCS Policy SD9 seeks to accommodate and protect natural features and to protect habitats of legally protected species, designated conservation sites and to resist development which would harm biodiversity and geodiversity of local importance.

6.7.4 The application is accompanied by an extended phase 1 habitat survey. The survey concludes that the site is of low ecological value and that the proposals provide the opportunity to enhance ecology at the site. The report sets out recommended mitigation and enhancement measures which can be secured through conditions.

6.7.5 Natural England requested that prior to making comments on the application a Habitats Regulations Assessment on potential impact and issues of recreation pressure on the Cotswold Beechwoods Special Area of Conservation (SAC). This assessment was subsequently produced and submitted to Natural England which caused delay to the application. In reviewing the assessment Natural England provided comments of no objection to the application subject to condition's being attached to ensure a suitable education and awareness raising material in the form of a 'homeowner information pack' in order to describe local recreation resources (off site open and greenspace) and the sensitivities of designated sites nearby including the Cotswold Beechwoods SAC. Given this the application on this matter is something which does not weigh against the proposal.

6.7.6 Archaeology

6.7.6.1 Paragraph 189 of the NPPF advises that where a development site has the potential to include heritage assets with archaeological interest, developers should be required to submit and appropriate desk-based assessment, and where necessary, a field evaluation.

6.7.6.2 The application is supported by a report on an archaeological evaluation which has been reviewed by the County Archaeologist who has recommend that no further archaeological investigation or recording should be required in connection with this scheme. Given this the application on this matter is something which does not weigh against the proposal.

6.7.7 Trees

6.7.7.1 The Tree Officer has provided comments on the application in respect of T2 (Oak Tree). As the application is outline it is considered the comments provided could be resolved by conditions and at the reserved matters stage. Given this the application on this matter is something which does not weigh against the proposal.

7. PLANNING BALANCE AND RECOMMENDATION

- 7.1 In weighing up the issues of this case are that the site is located outside the Principle Urban Area, and the landscape/visual harm to both the character and appearance of the area.
- 7.2 The Council cannot demonstrate a 5 year supply of housing and therefore paragraph 11 (d) (i) (ii) of the NPPF applies and that the tilted balance is triggered.
- 7.3 A number of benefits would flow from this development. The proposed 25 dwellings including a policy compliant 40% affordable housing provision would make a moderate contribution to the overall supply of housing. Additionally, the proposal would be likely to result in a limited increase to economic activity in Cheltenham. There would also be benefits associated with the improvements to bio diversity, green infrastructure, street lighting and footpaths.
- 7.4 The appeal site is located outside the PUA would be isolated from the existing and proposed urban area. It is clear from the RL assessment and from the conclusions of the Inspector that the significant weigh attached to the harm development of this site would have to both the character and appearance of the area nor does it provide adequate justification for reducing the weight that should be given to policies of the JCS. As set out in the RL assessment the reduction in number from 45 to 25 does not fundamentally change the fact that this semi-rural area is the wrong location for this form of more urban residential development that remains divorced from its surroundings.
- 7.5 Placing these factors and all of the relevant considerations in the balance, it is considered that the adverse impact of the proposal do not outweigh the benefits when assessed against the policies in the framework taken as a whole.
- 7.6 The proposal is considered to conflict with polices SD4, SD6 and SD10 of the JCS and Policy CO1 of the Saved Cheltenham Local Plan.
- 7.7 Draft refusal reason:

Reason 1

This site is not located within the Principal Urban Area (PUA) of Cheltenham, it is located beyond the built up area and therefore the site is not allocated for development purposes. The proposal for 25 dwellings at this site would lead to the following landscape effects: Appear as a separate enclave of development with no links to nearby residential development; Visually separated from the edge of Cheltenham; To be out of keeping with the semi-rural settlement form, density and pattern of the locality; The new highway entrance would remain an incongruous suburban type feature in the semi-rural area even with the reduction of scale of the remaining estate road. Reduce the landscape quality of the surrounding Lotts Meadow, a key part of the valued landscape at Leckhampton, through the ability to see upper storeys and roofscapes. The proposal therefore conflict with Policies SD4; SD6 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 and Policies CO1 and CP7 of the Saved Cheltenham Local Plan.

Reason 2

Policy INF4, INF6 and INF7 set out that development will be permitted only where adequate provision has been made for the infrastructure necessary for the development to proceed and for other public services and facilities, the need for which arises directly from the development. The development proposed will lead to a need to provide for an element of affordable housing (Joint Core Strategy Proposed Modifications Policy SD12). No agreement has been completed to secure the provision of affordable housing.

8. Appendix 1

Ryder Landscape Comments on Landscape and visual Matters associated with planning application at Kidnappers Lane, Cheltenham

**Comments on
Landscape and Visual Matters associated
with planning application at
Kidnappers Lane, Cheltenham**

**Produced by Stuart Ryder BA (Hons) CMLI
on behalf of Cheltenham Borough Council.**

June 2019

Applicant: Robert Hitchins Ltd.

Site: Land at Kidnappers Lane, Cheltenham

LPA Reference: 16/00202/OUT

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1.0 Introduction

- 1.1 This note is a review of the landscape and visual implications of the proposal by Robert Hitchins Ltd to build 25No. residential units on land off Kidnappers Lane, Leckhampton near Cheltenham.
- 1.2 There has been a previous application at the Site by the same applicant for 45 No. residential units. This scheme was refused planning consent in April 2017 and a subsequent appeal by Robert Hitchins Ltd was dismissed after a Planning Inquiry in April 2018.
- 1.3 I have been instructed by Craig Hemphill, Cheltenham Borough Council's Planning Case Officer for the current application to produce an initial consultation response to the application with comparison to the previous application and reference to the Planning Appeal decision notice given by Inspector Bridgwater in April, 2018.
- 1.4 I gave landscape and visual evidence at the Planning Inquiry for the previous scheme and at another Inquiry considering the refusal by Cheltenham Borough Council for a greater scale of development off Shurdington Road in Leckhampton.
- 1.5 This note is set into eight sections;
- Introduction
 - Summary of the current 25 No. unit application;
 - Comparison with previous 45 No unit application;
 - Review of Site landscape character and conditions;;
 - Published landscape character information and planning policies;
 - Other applications and appeals;
 - Summary of landscape and visual effects;
 - Overall conclusions.

2.0 Summary of current 25 No unit proposals

2.1 The following application documents have been used to understand the form of the current application;

- Illustrative Masterplan – Dwg 300.P.3 by Robert Hitchins dated 20.08.18;
- Landscape and Visual Impact Appraisal – by MHP Design Ltd dated January 2019, particularly Figure 12 – Constraints and Opportunities and Figure 13 – Landscape Strategy; and
- Design and Access Statement – No reference by Pegasus Group – dated January 2019.

2.2 In describing the proposed development the following points are evident from the masterplan;

- Access to all 25 No. units is to be taken from a single point off Kidnappers Lane
- The initial 50m of access road is a primary road with footpaths set all the way round the hammer head arrangement. The road has a suggested carriageway width of 5m.
- The remainder of the single spine road through the proposed development is indicated as secondary road with a carriageway width of 4m. There is indication of a separated footpath to one side but broken by many drives. It is hatched as the same as the road suggesting a shared surface or materials of some sort;
- Predominately detached properties are set off the secondary road with their principal elevations facing the spine road;
- There appears a small grouping of semi-detached and short terrace of houses to the north west corner of the Site
- A series of detached and semi-detached garages support the proposed detached properties;
- Off road parking is suggested with drives fronting the garages and a parking areas supporting the semi-detached properties;
- The existing tree and scrub planting is proposed to be retained in open space towards the centre of the Site;
- There is further open space marked on the plan near the entrance to the Site and at a SuDS Pond indicated to the north corner of the Site;
- A foul water pumping station is also indicated at the north corner of the Site;

- Hedgerow is indicated to be either retained or planted around the Site albeit there appears to be confusion as to which is which with existing hedges to the south east not marked with hatching;
- Proposed tree planting is indicated in the hedgerows around the Site, in the open space and down the secondary road.
- Proposed hedgerows are indicated as rear boundary treatments to some of the properties.

2.3 There is no play provision shown on the masterplan.

2.4 The masterplan's key box covers the adjacent properties of The Bungalow and Charltyne which sit to the eastern side of the proposals. Nor is there any indication of what exists in front of these existing properties. The proposals are illustrated in isolation without the benefit of surrounding context.

Landscape constraints figure

- 2.5 Figure 12 identifies a series of external constraints with views from Kidnappers Lane, the Public Right of Way (CHL/6/1) to the north west and from Lott's Meadow all indicated.
- 2.6 It cites reducing intervisibility with open space and existing residential properties to the east.
- 2.7 It shades two areas – the entrance and the central public open space as being distinctive small scale rural character.
- 2.8 The base aerial photography supplied by Google Earth Pro is copyright dated to 2018 but the aerial image is from before that date with the nursery associated with Charltyne and The Bungalow to the east of the Site in more active management.

Landscape Strategy information

- 2.9 Figure 13 – Landscape Strategy from MHP Design's Landscape and Visual Impact Appraisal indicates a series of planting works predominately new native hedgerow planting with trees indicated along their lengths.
- 2.10 There is no key to determine further levels of information but annotations suggest;
- The primary entrance road would be a rural character entrance;
 - That new native tree planting in the central public open space will create a rural character within the development and assist with screening from raised viewpoints in the AONB;

- The proposed hedgerow to the north west boundary would 'address' potential views into the Site;
- The proposed hedgerow to the south west boundary would screen the new built development should the roadside conifer hedge be removed; and
- The hedgerow and trees would create a 'practical green infrastructure'.

2.11 Like the main masterplan the landscape strategy does not show the immediate context of the neighbouring properties and the former nursery yard is rendered in the same green tone used for grass on the Site suggesting that the area is lawn or field in character when it is not.

3.0 Comparison to previous 45 No. unit proposals:

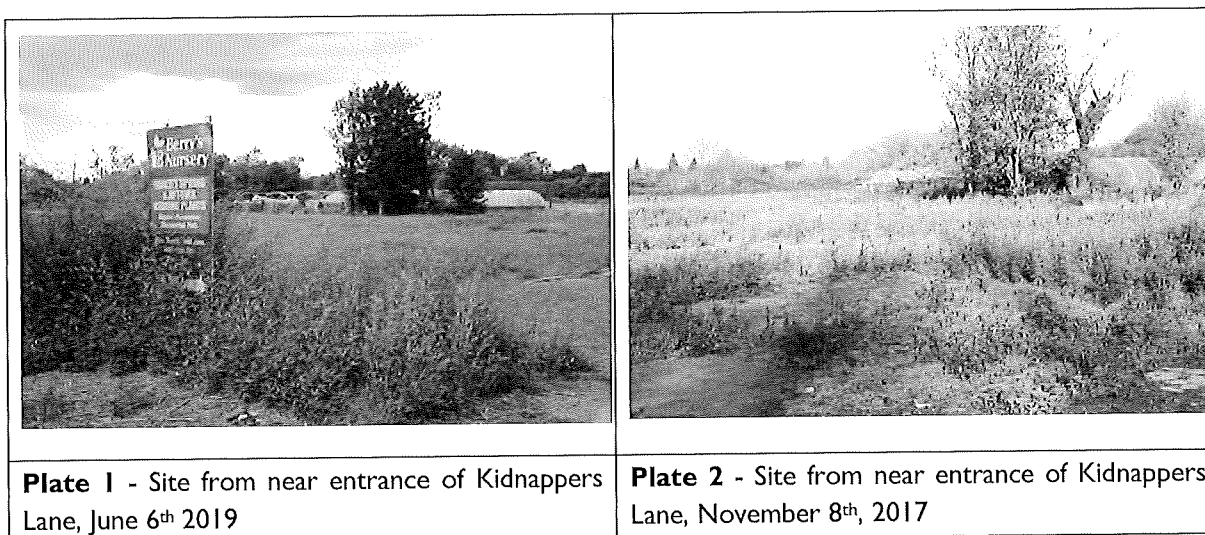
3.1 The previous schemes masterplan was also referenced as 330.P.3 and Revision Letter C. Table 1 compares the key features of the two proposals drawing out changes.

Ref	Subject	45 No. Unit Proposals	25 No. Units Proposals	Summary of change
1	Entrance location	End of straight section on Kidnappers Lane.	As before	No change.
2	Houses around entrance	6 No detached dwellings and 3 No. garages.	2 No. detached dwellings	Reduction in quantum of development visible when looking down site entrance.
3	Road form	Straight, more uniform road with footpaths to either side.	More varied alignment, lower key road	Road form downplayed in development
4	Road planting	Indicated along its length	Indicated along its length	No meaningful change.
5	Central public open space	One space to retain existing tree and scrub set to east side of access road only. Approximate measure 575Sq.m	Two spaces, one either side of the access road with further tree planting shown in both parts. Approximate measure 840 Sq.m	Increase in tree planting and enlargement of central public open space by 46%.
6	Grain of housing layout	Tighter layout with smaller gardens and lengths of short terraces.	More open grain, larger gardens fewer apartments and terraces illustrated.	More open but still a sense of uniformity in the layout.
7	Retained tree and scrub	Retained in central public open space	As before retained in public open space.	No change.
8	Retained hedgerow	Largely retained as boundary features, some new planting.	As before but with suggestion that non-native hedges will be replaced with native versions.	Change in hedge types to south west boundary.

Ref	Subject	45 No. Unit Proposals	25 No. Units Proposals	Summary of change
9	SuDS Pond and Pumping Station	Located at northern corner of Site and labelled public open space.	As before.	No change
10	North east boundary	Small detached house, pumping station building and garage set to rear of existing hedgerow.	Larger detached house, pumping station building and garage set to rear of existing hedgerow.	Increase in ability to appreciate built form to rear of existing hedgerow.
11	South east boundary	Two detached houses and intervening garage set close to existing hedge.	No houses or garages set between primary road entrance road and existing hedge.	Less immediacy to seeing upper storeys and roofs immediately behind hedge when viewed from Lott's Meadow. Dwellings behind may still be visible in 25 No. unit scheme.
12	South west boundary	Largely retention of existing nursery hedge with new hedge at either end to run full boundary.	Replacement of non-native nursery hedge with native hedgerow along whole boundary.	Change in species to one that is ecologically more valuable. Houses would be unscreened until native hedge establishes.
13	North west boundary	New hedge proposed to rear of a line of townhouses. Garden width 9-11m.	Native hedge proposed to a mix of properties. Garden width 3-8m.	More varied building line facing view to PRoW, rear garden spaces narrowed.
14	Close boarded fences	Close boarded fences indicated as red lines and listed in key.	Demarcation boundaries shown on plan but not indicated in key.	Unsure as to type of boundary that define rear and side garden spaces.

4.0 Review of Site landscape character and condition

- 4.1 Even though I was familiar with the Site from my last series of visits in 2017 and early 2018 I attended once again on 6th June, 2019 to assess two matters;
- Whether the Site itself had changed in landscape terms; and
 - Whether the context to the Site had changed.
- 4.2 The simple observation is that neither the Site's nor the surrounding landscape area's character condition have changed. Please see the comparison photographs below.
- 4.3 The Site still appears as a semi-redundant nursery area with the poly-tunnels set off the Site to the east and the accompanying occupied bungalows tempering its sense of total abandonment.



- 4.4 The Site actually appeared in a slightly tidier state than when last photographed in November 2017.
- 4.5 Even though the wider area off Shurdington Road has been identified for up to 200 houses and a new school there has been no major development started and the landscape character remains the same.
- 4.6 The June 2019 visit took access to Lott's Meadow which was identified by Inspector Clarke as a valued landscape under the then 2013 NPPF §109. This too had not changed other than the dying oak tree was well and truly dead. Public access and the desire lines created by users of the meadow followed the same routes and the north western and south western boundaries of the Site were still evident.



Plate 3 – Hedge to south-east side of Site as viewed from Lott's Meadow, 6th June 2019



Plate 4 – Hedge to north-east side of Site as viewed from Lott's Meadow, 8th November 2017

- 4.7 Obviously set in different seasons the two photographs show the same hedge and lack of built-form in the view.

5.0 Published landscape character information and planning policies

5.1 Since the previous application in 2017 there has been no further landscape character information or guidance notes published on landscape sensitivity or capacity in the Joint Core Strategy area of Cheltenham, Tewkesbury and Gloucester.

5.2 The landscape character assessment information remains;

- Gloucestershire Landscape Character Assessment – Settled Unwooded Vale landscape character type with specific landscape character area defined as SV6b – Vale of Gloucester – Landscape Design Associates (LDA) January 2006.
- Joint Core Strategy Landscape Characterisation Assessment and Sensitivity Analysis – September 2013;
- Landscape & Visual Sensitivity and Urban Design Report (2012); and
- Land at Farm Lane/Church Road Leckhampton, Cheltenham – Landscape and Visual Appraisal – Final Report Landscape Design Associates (LDA) July 2003.

5.3 The adopted local development framework landscape planning policies remain in the Joint Core Strategy adopted 11th December, 2017;

- **SD4 – Design Requirements** – particularly the references to li) siting, respecting local landscape character and creating positive new living places;
- **SD6 – Landscape** – proposals seeking to respect landscape character, local distinctiveness and historic landscapes, also introduces the need for Landscape and Visual Impact Assessment (LVIA) in support of planning applications;
- **SD7 – Cotswolds AONB** – protection of the parts of this designated landscape that fall with the JCS boundaries, not engaged for this application.

5.4 The following two saved policies from the Cheltenham Local Plan – Second Review adopted July 2006 are appropriate;

- Cheltenham Saved Policy CO1 – The landscape harm arising from the proposals means they are in conflict with this landscape character policy particularly as the local area is a valued landscape under NPPF Paragraph 109;

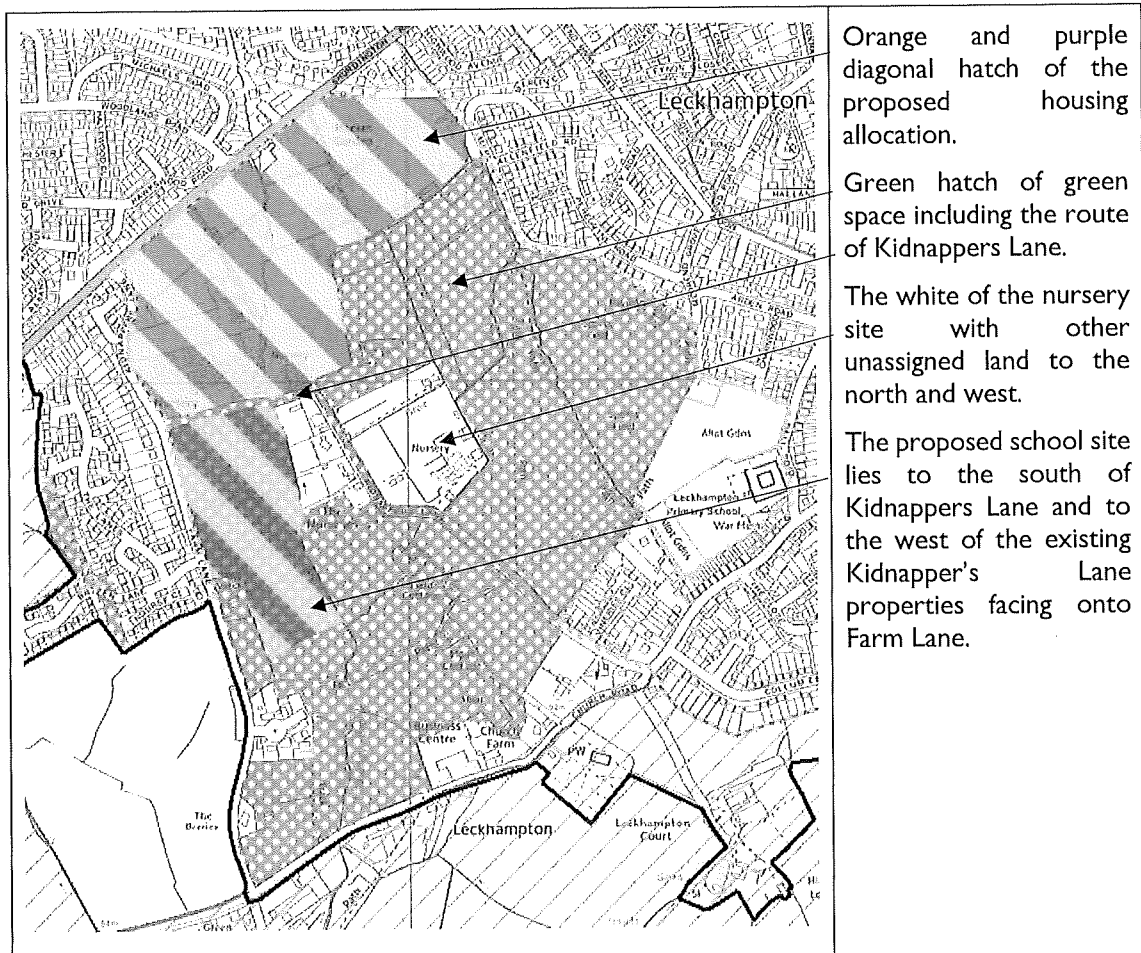
- Cheltenham Saved Policy CP7 - which addresses design matters. A series of fundamental design concerns were raised with regard to both urban design matters – strand (b) of the policy and how it relates the surrounding landscape strand (c) of the policy. The proposals are considered to be in conflict with both strands.

5.5 Cheltenham Saved Policy CO2 – relating to the Cotswolds AONB is not engaged as there appears to be no actual harm to the setting or fabric of the AONB.

6.0 Other Planning Applications and Appeals

Applications

- 6.1 Gloucestershire County Council (GCC) are at a pre-application stage with the proposal to build a new secondary school in the Farm Lane / Kidnappers Lane area.
- 6.2 The Emerging Cheltenham Local Plan is showing the position of approximately 200 houses located in an area to the north of Site adjoining Shurdington Road.
- 6.3 The below plan illustrates the proposed school and housing positions.



Orange and purple diagonal hatch of the proposed housing allocation.

Green hatch of green space including the route of Kidnappers Lane.

The white of the nursery site with other unassigned land to the north and west.

The proposed school site lies to the south of Kidnappers Lane and to the west of the existing Kidnapper's Lane properties facing onto Farm Lane.

- 6.4 The plan shows that there is still a green gap between the proposed Shurdington Road housing allocation and the former nursery site. This gap is bounded to the north by Footpath CHL/6/1 and the area around Robinswood Cottage.

- 6.5 The gap between Footpath CHL/6/1 and the Application Site measures approximately 100m and comprises two linear fields. The north one (near the footpath) is demarked as green space and the southern one (near the Site) is currently undesignated.
- 6.6 The under used nursery area to the west of the Application Site is also white symbolising no local designations or allocations.
- 6.7 The Application Site is set nearest to the centre of the allocated green space and in spatial terms is still separated from existing and proposed residential form.
- 6.8 The proposed secondary school is likely to have an urbanising effect on the Farm Lane / Kidnappers Lane area the degree of which will depend on where the school's buildings and playing fields will be sited.
- 6.9 If as advised by GCC in their pre-application discussions the school buildings are set to the north of the allocation they will be located behind the existing dwellings on this part of Kidnappers Lane (children's nursery and residential houses). The playing fields will sit to the south and have the greater relationship with the Application Site.
- 6.10 There would be a single field of separation between the playing fields and the Application Site entrance equating to a distance of approximately 200m. Again like the proposed housing allocation there will be no physical adjoining of the proposed education development with the Application Site.
- 6.11 The character of the Kidnappers Lane road corridor will change near to the proposed school where it runs east to west after the 90 degree corner at the access to Robinswood Cottage. However the stretch of Kidnappers Lane that the Application Site is set off will likely remain unchanged by the housing and school allocations. This is based on the assumptions that the housing and school will be typical two storey buildings and not tall tower developments and that the intervening vegetation is retained.

Appeals

- 6.12 There are a number of Planning Inspectors who have considered Appeals for the Site, the wider Leckhampton area and elsewhere in the JCS. These have cast light on JCS and Cheltenham Local Plan policies, interpretation and the weight that Inspectors have put to them. The landscape aspects of the following Inspector's decisions are considered below;
- Inspector Clark in considering the 650 unit scheme in the greater Leckhampton area as promoted jointly by Bovis and Miller Homes. Appeal Reference APP/BI605/W/14/3001717;

- Inspector Bridgwater in considering the 45 unit scheme at the Site, Appeal Reference - 3178592: and
- Inspector Baugh-Jones in considering an appeal for 40 units at Highnam in Tewkesbury Borough Council – APP/G1630/W/17/3184272 and subsequently recovered by the Secretary of State.

Bovis and Miller Homes – 650 Unit scheme – APP/BI605/W/143001717

- 6.13 The Inspector's report has been reviewed by the then Secretary of State (SoS) who in his covering letter at §19 & 20 reiterated the Inspector's comments that the wider site is valued landscape as copied below;

Landscape of the site itself and conclusion on landscape character and appearance

19. Turning to the site itself, the Secretary of State has considered the Inspector's assessment at IR257-263 and agrees that, whilst not designated, the site has its own intrinsic charm which gives it value (IR260), is a locally valued landscape, and that its value derives from its own characteristics, of which views towards the AONB are only one of a number of charming features (IR263).
20. In conclusion, the Secretary of State agrees that development on this site at the present time would harm the character and appearance of the local area through the loss of a valued landscape (IR264). Although development of the site would not harm more structural elements of the wider contextual landscape character, such as the nearby AONB or the setting of Cheltenham as a whole, its development would cause a local loss and would conflict with LP policies identified at IR265.
- 6.14 In looking at the Inspector's Report (IR) comments that the SoS endorses Inspector Clark's selected paragraphs from §258-265 are reproduced below. Particular points have been highlighted by myself but in short;

The Inspector found the wider Leckhampton Meadows landscape a valued landscape;

- That it was valued due to its own qualities and not because of proximity or views to the nearby AONB;
- That larger development in the area would harm the character and appearance of the local area;
- The proposals would conflict with JCS Strategy SD7 (now re-numbered SD6) – the Landscape policy;
- That the 'structural' landscape of the AONB and setting to Cheltenham would not be harmed by the proposals; and

- Views to and from the AONB are not significantly altered.
258. My site visits, both informal and unaccompanied before the event, and formal and accompanied during the event, convince me that the LDA report referred to by the Parish Council carries the most compelling analysis of the worth of this site rather than the more recent work carried out by the Council and the appellant specifically for this proposal. That earlier report accurately describes the mosaic of land uses, varied topography, landscape history, dense network of footpaths, small to medium sized fields, mature vegetation, established hedgerows, isolated specimen trees, orchard remnants, streams and frequent glimpses of or views to the AONB which combine to make the whole of this site a memorable landscape [156-160]. Those characteristics remain largely unchanged.
259. Mr Cahill, speaking for the appellant, quoted Oscar Wilde's dictum "We are all in the gutter, but some of us are looking at the stars" to suggest that because a landscape of stellar quality (the AONB) can be seen from the site does not make the site itself stellar. That may be true but this site is no gutter.
260. In my view, the landscape value of this site depends less on the fact that it can be seen from the AONB, or that from it can be seen the fact that hills surround Cheltenham; rather, it is its own intrinsic charm which gives it value. That intrinsic charm is well described in the LDA report.
261. There has been a succession of planning Inspectors who have recognised the intrinsic landscape value of this site [37-39 and 43]. I have no reason to disagree with them. I concur with the opinion that it would be sad if Leckhampton fields were to be developed in preference to some less interesting but designated Green Belt land.

Conclusion on character and appearance

264. I therefore conclude that the development of this site at the present time would harm the character and appearance of the local area through the loss of a valued landscape. Although its loss would not harm more structural elements of the wider contextual landscape character, such as the nearby AONB or the setting of Cheltenham as a whole, its development would cause a local loss.
265. It would conflict with those parts of Local Plan policies CP1, CP3, CP7 and CO1 which would permit development only where it would take adequate account of safeguarding attractive landscapes, complement and respect the character of the locality and not harm the visual amenity of the landscape, attributes and features which make a significant contribution to its character, distinctiveness, quality and amenity value. Although consistent with emerging (but not universally accepted) JCS policy SA1 which allocates the site for development and with emerging policy SD8 which requires development to preserve the special qualities of the AONB, it would also conflict with emerging JCS policy SD7, seeking to protect landscape character.
- 6.15 The current application Site was not subject to the 650 unit Appeal and the valued landscape is deemed to be the area to the north, east and south of the current proposals.

6.16 Inspector Clark’s opinion on the valued landscape status of the 650 unit Appeal site was confirmed by the Secretary of State in a call-in letter where he confirmed at §20 that he ‘*agrees that development on this site at the present time would harm the character and appearance of the local area through the loss of a valued landscape*’.

6.17 The landscape quality and value of the area was further reinforced when Inspector Ord who has been examining the Joint Core Strategy of Cheltenham, Gloucester and Tewkesbury decided to remove the Leckhampton Fields area as a strategic allocation site and downgraded it to one where she felt 200 units could be accommodated. In her Interim Report of May 2016 at §117 (CD D8) she explains her opinion of the landscape to the east of Farm Lane which includes this Site and the wider Lotts Meadow;

‘The adjacent land, east of Farm Lane, is also highly sensitive to development mainly due to its proximity to the AONB and stunning views into and out of the AONB.’

Robert Hitchin 45 No Unit Appeal – APP/B1605/W/17/3178952

6.18 This was the Appeal into the previous application at the Site. It was heard by Inspector Bridgwater and his Appeal Decision was published on the 4th April, 2018. Sections 17-25 of his 9 page Decision Report are reproduced below with preceding commentary and highlighting used to pick out key parts of Inspector Bridgwater’s comments;

6.19 In §17 he identifies;

- The Site is not a valued landscape; but
- Re-confirms Inspector Clarks opinion that the wider area is a valued landscape as per the then current Para 109 of the 2013 NPPF, now Para 170(a) of the 2019 NPPF.

17. The appeal site is not within or immediately adjacent to any Landscape designation in the adopted Development Plan. It is however located in proximity to the AONB. Whilst the site has not been identified as a valued landscape; it is however within an area identified as valued having regard to Paragraph 109 of the Framework.

6.20 In §18 he confirms;

- That both Kidnappers Lane and the area in the vicinity are semi-rural in character;
- Built form in the area is low in density and dispersed in nature and with its own distinct landscape character;

- Considers that despite its semi-derelict condition the openness of the Site has a local aesthetic value.

18. Kidnappers Lane and the area in the vicinity of the appeal site are semi-rural in character. As such, the appeal site is a component part of a mosaic of rural and settled features at the edge of the main settlement area of Cheltenham that includes old orchards, nurseries and small holdings. Consequently, the built form in the area is low density and dispersed in nature, having its own distinct landscape character and is a valued landscape. Like large parts of Cheltenham the site and its surroundings are experienced in the context of the rising Cotswold escarpment. Therefore, despite its semi-derelict condition, the appeal site due to its openness does have a local aesthetic value, and this has been evidenced by the representations both in writing and during the Inquiry from local residents.

6.21 §19 describes the enclosure of the Site;

- Generally contained by existing screening boundary vegetation / hedgerows; and
- Found the northern boundary to the public footpath a key exception which allows extensive views into and across Site.

19. I confirmed by way of my site visits that the appeal site in its existing condition is generally contained by existing screening boundary vegetation/hedgerows and trees within and around the site. The key exception to this is from the public footpath to the north of the site which allows extensive views into and across the site, which was not significantly reduced by the layering effect of the intervening landscape and vegetation. The site is also visible from Leckhampton Hill as part of the Cotswold escarpment.

6.22 §20 gives his opinion on visual impact in comparison to the current condition;

- Even with visual containment would have a significantly greater visual impact than former nursery; and
- Even with filtering of views from Lotts Meadow the upper storeys and roofscapes of the development would be highly visible.

20. Even taking into account the visual containment I have identified, the proposed introduction of up to 45 dwellings would have a significantly greater visual impact than the former commercial plant nursery, which in its existing condition is largely open and punctuated by generally low level and lightweight structures. Therefore, whilst views from Lotts Meadow into the site would be filtered by a combination of increased boundary planting and layers of established vegetation, the upper storeys and roofscapes of the development would be highly visible due the cumulative effect of the height and overall scale of the proposal.

6.23 §21 is a long paragraph which addresses the views to the Site from Kidnappers Lane itself, it makes a series of adverse points;

- Upper floors and roofscape not adequately retained;
- Visual effects would be particularly stark when travelling south;
- Harmful visual effect is accentuated by views down site entrance at a bend;
- Coniferous hedge and land that provides screening is out of the control of the Appellant;
- Accepts argument that the site dwellings could be architecturally designed to appear more rural but this would not mitigate the overall visual harm.

21. With regard to views from Kidnappers Lane, based on the evidence before me and my on-site observations, I consider that the upper floors and roofscape of the proposal would not be adequately contained visually. This is due to a combination of the proposed height and density of the development and the lack of screening around the entrance to the adjoining site that lies between the appeal site and Kidnappers Lane. The visual effects of the proposal would be particularly stark when travelling south towards the site entrance along Kidnappers Lane, meaning that built form along the western boundary of the appeal site would appear dominant, with screening difficult to achieve due to the intervening land being outside the appellant's control. This harmful visual effect is further accentuated by views into the site opening up due to the bend in Kidnappers Lane close to the site entrance. Moreover, the existing coniferous hedge which provides the most effective visual containment when travelling north along Kidnappers Lane is not in the appellant's control. Therefore, its continued retention for screening/containment purposes could not be guaranteed by the appellant should the development proceed. In reaching this conclusion I accept the appellant's argument that the proposed dwellings around the site entrance could be architecturally designed to reflect the appeal site's semi-rural setting. However, this would not mitigate the overall visual harm that I have found when viewing the site from Kidnappers Lane.

6.24 At §22 Inspector Bridgwater returns to the view from the Public Right of Way (ProW) to the north west of the Site commenting;

- After careful consideration he believes that the northern boundary screen planting would not be effective;
- That intervening land is not in control of the Appellant;
- The proposed planting would not adequately mitigate the urbanising visual effects of the proposals;
- The proposals would have their most significant and harmful effect when viewed from the PRow

22. With regard to the northern site boundary, I have carefully considered the appellant's proposed structural planting/landscaping within the appeal site boundary. However, it is highly likely given the constraints of the site that the proposed planting would be in close proximity to the proposed built form. This would be likely to diminish the effectiveness of the screen planting when viewed from the public footpath to the north. Furthermore, the paddocks/fields that separate the appeal site from the public footpath to the north are not in the appellant's control and therefore the limited layered screening function that they currently provide cannot be relied upon to supplement the on-site boundary planting. Therefore, I am not persuaded that the proposed structural planting/landscaping would adequately mitigate the urbanising visual effects of the proposal. Consequently, the proposal would have its most significant and

harmful effect when viewed from the public footpath to the north of the appeal site.

6.25 §23 is the summary of all his visual considerations stating the proposals would result in;

- An incongruous and permanently harmful visual effect; and that it would;
- Materially harm the character and appearance of the area.

23. Having reached the conclusions above the cumulative visual effects of the proposal would result in an incongruous and permanently harmful visual effect, which would materially harm the character and appearance of the area.

6.26 §24 is the summary of the Inspector's conclusions on landscape character of the proposals;

- Appear as an island of dense development;
- Visually divorced from the edge of Cheltenham;
- Stark contrast to the semi-rural settlement pattern of the locality;

- The new highway entrance would introduce an incongruous suburban type development in a semi-rural area.

24. With regard to landscape character, I have carefully considered the detailed submissions of the appellant¹. However, I consider that the proposed development (up to 45 dwellings) would appear as an island of dense development, visually divorced from the urban edge of Cheltenham. This would be in stark contrast to the dispersed semi-rural settlement pattern of the locality. Furthermore, the likely introduction of an engineered vehicular access and footways would increase the presence of an incongruous suburban type development in a semi-rural area. Moreover, this effect would be particularly prominent when viewed from Leckhampton Hill where the semi-rural landscape can be fully appreciated. As such, the proposal would result in material harm to the landscape character of the area.

6.27 §25 considers views back to Leckhampton Hill and the Cotswolds escarpment concluding;

- the proposal would not materially harm views of the AONB as a whole.

25. I accept that the proposal would be a dominant feature in the foreground of views up to Leckhampton Hill when viewed from the public footpath to the north of the appeal site. However, the Cotswolds escarpment is a dominant feature for the majority of Cheltenham and it is experienced in varying contexts, with views constantly evolving as you travel through the town. As such, the introduction of the proposal would mean that views to Leckhampton Hill would change, albeit such a change would be consistent with views experienced elsewhere in the town. Moreover, views out to the AONB would vary as one travels along the public footpaths and roads that surround the appeal site. Therefore, whilst the view to Leckhampton Hill would change from the northern footpath, the proposal would not materially harm views of the AONB as a whole.

6.28 Finally at §26 Inspector Bridgwater reiterates his conclusions and identifies the Local Development Framework policies he considers the proposals are and are not in conflict with;

- Material harm to the character and appearance of the area by the introduction of suburban built form;
- Unsympathetic to the semi-rural character of the area.
- Conflict with JCS Policy SD8 – Historic Environment, CLP Policies CO 1 – Landscape and CP7 – Design
- No conflict with CLP Policy CO 2 as it relates to development with the Cotswolds AONB.

26. Having reached the conclusions above, the proposal would result in material harm 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. The proposal would therefore conflict with Policy SD8 of the JCS and Policies CO 1 and CP7 of the CLP. However, I consider that the proposal would not conflict with Policy CO 2 of the CLP as this specifically relates to development within the Cotswolds AONB.

6.29 Inspector Bridgwater's reference to SD8 is somewhat surprising and it may be a typographical error as it JCS Policy SD6 that addresses landscape as a topic and no allegation of harm to historic environments is alleged.

**Oakridge, Highnam – 40 Unit scheme in Tewkesbury Borough Council –
APP/G1630/W/17/3184272**

6.30 Inspector Baugh-Jones considered an appeal for 40 units at Oakridge, Highnam in Tewkesbury Borough Council – APP/G1630/W/17/3184272. His Appeal Decision was subsequently recovered by the Secretary of State. The following comments are taken from the Inspector's Report dated 28th September 2018.

6.31 I appeared at this Inquiry giving evidence on behalf of Tewkesbury Borough Council and Paul Harrison, Director of MHP Design Ltd who is advising Robert Hitchins Ltd in this Application also appeared on behalf of the Appellants, R Keene and Sons.

6.32 Inspector Baugh-Jones presents the cases for each of the three parties – Tewkesbury Borough Council, Highnam Parish Council (as a Rule 6 Party) and the Appellants R Keene and Sons. Landscape matters and interpretation of JCS Policy SD6 is given at a number of locations. The following paragraphs have been extracted.

6.33 In the case for TBC he included the following comments;

81. Taken together, the harm represented by the appeal proposal to policy in principle and in substantive terms, is significant. Even if it is found that there is no 5 year HLS, the harm still significantly and demonstrably outweighs the benefits.
82. The tilted balance does not provide additional weight to benefits. Benefits, as material considerations, carry whatever weight they are deemed to carry. Paragraph 11 of the Framework addresses the harm that a proposal causes, whatever the decision maker decides that should be. It requires an assessment as to whether that harm significantly and demonstrably outweighs the benefits, whatever weight those benefits might be assessed as having. It is not the weight of benefits that is increased, nor the weight of conflict with policy that is diminished. The decision maker is not required to apply any unusual weighting to those conflicts or benefits. When the balancing exercise has been done, the decision maker has to be sure that the harms significantly and demonstrably outweigh the benefits.
83. The conflicts with policy still exist even if the tilted balance applies. Even a finding that policies are "out-of-date" does not mean there is no conflict with policy and it does not pre-judge how much weight that policy should be given either. It would still be entirely possible to refuse this proposal even if the tilted balance applies.
84. None of the benefits highlighted by the Appellant are in any way unique or special to this site and proposal. They are all very much to be expected of a settlement edge greenfield site like this.
- 6.34 His report cast doubt on TBC's ability to deliver a 5 year housing land supply but even with this his balance comments at §263 gave very substantial weight to the landscape harm he had found.
263. However, the clear identified harm to the landscape and the resulting development plan policy conflict is a matter to which I give very substantial weight. Whilst the other policy conflicts would have reduced weight due to the HLS position they still weigh negatively in the planning balance. .
- 6.35 Returning to two paragraphs, §232 and §243 Inspector Baugh-Jones gives his conclusions on the LVSS at his §232 which is his abbreviation for the Landscape and Visual Sensitivity Study Rural Service Centres and Service Villages (2014).
232. Nevertheless, the LVSS goes on to stress that landscape and visual sensitivity to new development is not the same as the 'capacity' of a place to accommodate development. It says, quite correctly in my view, that unsympathetic or inappropriate development will not be suitable in a land parcel, even if the area is deemed to have a low sensitivity.
- 6.36 The LVSS is a study that only applies to villages in Tewkesbury but it explains that unsympathetic or inappropriate development is not suitable in a land parcel, even if the area is deemed to have a low

sensitivity. This statement is endorsed by the Inspector and could be applied to the Kidnappers Lane site with its lower sensitivity than surrounding landscape areas inappropriate development is still just that whatever its starting landscape sensitivity is.

- 6.37 The second re-visited paragraph is §243 which addresses Reserved Matters, good design and JCS policy SD4 – Design Requirements.

243. It was argued by the Appellant that design matters are properly to be considered at reserved matters stage and for that reason there would be no conflict with JCS policy SD4. However, good design goes beyond merely considering the appearance of the development itself and should properly include wider considerations of how it fits into the settlement and the landscape. I have found that it would not and also therefore find the proposal to run counter to policy SD4.

- 6.38 The Inspector dismisses the Appellant's argument that design matters only apply at reserved matters stage. He explains that good design goes beyond the appearance of the development itself but wider considerations of how it fits into the settlement and landscape. Following this consideration he finds the proposals run counter to policy SD4 on this basis.

- 6.39 It is SD4 – Policy Text 1i) that such locational considerations are made as set below;

Policy SD4: Design Requirements

- 1. 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

Highnam summary

- 6.40 Acknowledging that this is a different location with a different set of circumstances the Inspector found that landscape and visual effects outweighed the benefit of the development even in an authority that could not demonstrate a 5 year housing land supply. Furthermore this proposed development was adjoining an existing settlement edge whereas the Kidnappers Lane is not.
- 6.41 This Highnam Appeal decision was also called in by the SoS and found to be sound.

7.0 Summary of landscape and visual effects

7.1 Given my previous experience of the Site and after appearing at the last Inquiry the following landscape and visual effects are expected to occur.

7.2 I have satisfied myself that the landscape character of the Site and surrounding contextual area has not changed since my last visit in February 2018. Likewise I do not consider there to be any changes in the nature or number of visual receptors who experience the Site and surrounding area.

Landscape effects

7.3 All the landscape effects are local to the Site. There are none in the wider National Character Areas or directly on the Cotswolds AONB.

7.4 The Site if considered in isolation is not a valued landscape as per 2019 NPPF 170(a) but remains within a wider area that is considered a valued landscape as determined by Inspector Clark and Inspector Bridgwater.

7.5 The proposals in this updated reduced form would lead to the following landscape effects;

- Still appear as a separated enclave of development with no links to nearby residential development;
- Remain visually separated from the edge of Cheltenham;
- Continue to be out of keeping with the semi-rural settlement form, density and pattern of the locality;
- The new highway entrance would remain an incongruous suburban type feature in the semi-rural area even with the reduction of scale of the remaining estate road.
- Reduce the landscape quality of the surrounding Lotts Meadow, a key part of the valued landscape at Leckhampton, through the ability to see upper storeys and roofscapes.

7.6 It is acknowledged that the reduction in unit numbers from 45 to 25 will make the development appear less dense than before but it is still considerably denser than the surrounding scattered semi-rural development and has a totally different form to existing nearby houses. It will still appear as a separated estate, albeit one with larger properties and larger garden spaces than the previous application.

Visual effects

7.7 There will be visual change experienced by people travelling through or recreating in the area.

- 7.8 It will largely be the same as the previous 45 No. unit proposal but with some changes as outlined below given the reduction in unit numbers.
- 7.9 Less houses will be seen when looking down the access road at the bend of Kidnappers Lane but the appearance of the new entry will remain suburban contrasting with the surrounding semi-rural setting.
- 7.10 The immediacy of views to houses from the east side of Lotts Meadows will be reduced with the same reduction of house numbers at the Site's entrance, however it is still anticipated that roofs of development will still be seen from Lotts Meadow, particularly at the northern corner where the house size has increased.
- 7.11 The views from the PRoW to the north west where Inspector Bridgwater considered the most significant and harmful visual effects would take place will not change. There is still only space for a hedge shown on the current proposals but now reinforced with an indicated six trees. The garden spaces to the rear of these dwellings has narrowed and the Applicant to my knowledge still does not own the paddocks that lie between the PRoW and the Site so should not rely on planting in these narrow enclosures to screen or set their proposals in the local scene.
- 7.12 With regard to the western boundary a new native hedgerow is proposed as a way of overcoming the development's perceived weakness of reliance on off-site, none applicant owned coniferous planting for effective setting and screening when viewed from Kidnappers Lane. This hedge is positioned very close to the proposed western line of houses set between 2-10m away from the houses and garages. As Inspector Bridgwater points out (IR §22) the effectiveness of hedge is reduced the closer it is positioned to the building it is trying to screen from the given viewpoint.
- 7.13 It is unclear who owns the current non-native hedge that marks the boundary between the former nursery areas and whether it is to be felled to allow space for the proposed hedgerow. In landscape character and ecology terms a native hedgerow is considered more valuable than a non-native hedgerow. However if the existing hedge is to be felled then there is an increased risk of sight to the proposals from Kidnappers Lane until the new hedge reaches functional maturity.

8.0 Overall conclusions

- 8.1 It is easy to look back at the previous proposals and compare these new proposals with them. They have to be judged on their own merit and not on what has been submitted before.
- 8.2 However given the similarity of the two schemes, even with the reduction in units from 45No to 25No, it is unsurprising that a similar set of landscape and visual effects occur.
- 8.3 The schemes are tied to having the same access point, they have a similar central access route and approximate arrangement of buildings. Ancillary buildings and features such as the foul pumping station and the SuDS pond remain the same.
- 8.4 The Landscape Strategy proposals state that the proposals are trying to conserve a rural character to Kidnappers Lane or create one with new native tree planting but ignores the obvious effect of introducing 25No. units and associated attached and detached garages within a semi-rural location.
- 8.5 Landscape effects arise from the uniformity of house size, their location off an estate road and general separation from the existing edge of Cheltenham or even the dispersed buildings in the immediate vicinity.
- 8.6 In landscape terms the Site is not a valued landscape (2019 NPPF §170(a) but is surrounded by a valued landscape to the east and south.
- 8.7 The landscape effects are considered to be;
- The development appearing as a separated enclave of development with no links to nearby current or proposed residential development;
 - The development appearing separated from the edge of Cheltenham;
 - The form of the development appearing out of keeping with the surrounding semi-rural landscape character, building type, density and pattern of the locality;
 - The new highway entrance would be an incongruous suburban type feature in the semi-rural area and contrast with the existing character of Kidnappers Lane; and
 - Reduce the landscape quality of the surrounding Lotts Meadow, a key part of the valued landscape at Leckhampton, by the introduction of built form where none is evident at the moment.
- 8.8 The proposals are therefore in conflict with the following development plan and national policies;

- JCS Policy SD4 – Design Requirements specifically Part 1i – Context, Character and Sense of Place, regarding the siting of proposals and relationship to existing settlement and landscape character;
- JCS Policy SD6 – Landscape - Parts 1 & 2 as the proposals was accompanied by an LVIA in accordance with Part 3.
- Cheltenham Saved Policy CO1 – Landscape – Parts (a) & (b).
- Cheltenham Saved Policy CP7 - Design. A series of fundamental design concerns were raised with regard to both urban design matters – strand (b) of the policy and how it relates to the surrounding landscape strand (c) of the policy. The proposals are considered to be in conflict with both strands.
- 2019 NPPF - §170 a) – valued landscapes and the failure of the proposals to protect or enhance the valued landscape of Lotts Meadow.

Effects on visual amenity including views to the Cotswolds AONB

- 8.9 Effects on visual amenity are experienced on all sides of the Site even though it would be set behind existing hedgerows.
- 8.10 The visual amenity of the adjacent Lotts Meadow would be reduced and the people using the paths through this popular and highly attractive area would experience visual harm.
- 8.11 Visual amenity to the north of the Site would also be harmed. Footpath CHL/6 runs from the northern bend in Kidnappers Lane allowing public access through the area of small fields to the north of the Site. This footpath benefits from an attractive view up to Leckhampton Hill as part of the Cotswolds AONB escarpment.
- 8.12 It was views from Footpath CHL/6 that Inspector Bridgwater at the Inquiry into the 45 No. unit scheme considered the most significant and harmful visual effects would be experienced from this footpath. That would remain the case as the level of screen planting remains the same with just a hedge separating the proposed Site from the land to the north.
- 8.13 Views to the Cotswolds AONB and escarpment including Leckhampton Hill would be changed for users of Footpath CHL/6 but remain in the wider area. This would be typical of how the AONB is experienced from other areas in Cheltenham. Policies CO 2 and JCS 7 that relate to landscape change in the AONB and its setting are not considered to be engaged.

In summary

- 8.14 For the reasons set out above I conclude the proposals are not appropriate for this location. Even though some landscape benefit may arise at the Site itself this does not offset the significant landscape and visual harm that occurs in the valued landscape around the Site should the development be consented.
- 8.15 As per the previous application, as tested at Planning Inquiry - APP/B1605/W/17/3178952, I consider there remains a conflict with JCS and Saved Cheltenham Local Plan landscape policies SD6 and CO I and the landscape strands of SD4.
- 8.16 It is recognised that the proposed number of units has been reduced from 45No. to 25No. but this does not fundamentally change the fact that this semi-rural area is the wrong location for this form of more urban residential development that remains divorced from its surroundings.

