

PROOF OF EVIDENCE ON LANDSCAPE
AND VISUAL MATTERS

Prepared by:
Paul Harris BA, DIP LA, CMLI
Chartered Landscape Architect

On behalf of:
Robert Hitchins Ltd

In respect of:
25 Dwelling Scheme
Land Off Kidnappers Lane, Cheltenham

LPA: **Cheltenham Borough Council**
LPA reference: **19-00334 OUT**

PINS reference: **APP/B1605/W/19/3238462**

Date: **20th December 2019**

CONTENTS

1. AUTHORSHIP.....	3
2. SCOPE OF EVIDENCE.....	4
3. LANDSCAPE POLICY AND GUIDANCE.....	6
National Policy and Guidance	6
Local Policy (Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031).....	7
4. SITE DEVELOPMENT AND DEVELOPMENT PROPOSALS.....	12
5. LANDSCAPE CHARACTER AND LOCAL CONTEXT.....	20
6. APPEARANCE AND VIEWS.....	28
7. LANDSCAPE AND VISUAL EFFECTS.....	36
8. COMPLIANCE WITH POLICY	39
9. SUMMARY AND CONCLUSION.....	42

LANDSCAPE APPENDICES

Appendix A:	Figure 1 Appeal Site Context with Existing and Planned Settlement
	Figure 2 Leckhampton Farm Court Aerial View
	Figure 3 Additional Photograph 1
	Figure 4 Additional Photograph 2
	Figure 5 Additional Photograph 3
	Figure 6 Additional Photograph 4
	Figure 7 Additional Photograph 5

Appendix B:	Figure 1 Viewpoint Locations for Photomontages
	Figure 2 Viewpoint 7 Photomontage (Existing and at 8 years)
	Figure 3 Viewpoint 7a Photomontage (Existing and at 8 years)
	Figure 4 Viewpoint 11 Photomontage (Existing and at 8 years)
	Figure 5 Viewpoint 6 Photomontage (Existing and at 8 years)
	Methodology, locations and images for A1 presentation
	Figure 6 Additional Photograph showing view from appeal site view to Brizen Park Development

Appendix C:	Figure 1 Preliminary Masterplan by Miller Homes
--------------------	---

Appendix D:	Figure 1 Landscape Strategy (Application drawing 18107.101)
--------------------	---

- Appendix E:**
- Figure 1 Proposed Landscape Masterplan
 - Figure 2 Proposed Sectional Elevations 04 North
 - Figure 3 Proposed Artists Impression 13 – Site & 3D Massing 05
 - Figure 4 Proposed Highway Works Kidnappers Lane SK07
 - Figure 5 Proposed Highway Works Kidnappers Lane SK08

1. AUTHORSHIP

- 1.1. I am Paul Stuart Harris, a qualified Chartered Landscape Architect and Director of MHP Design Ltd, a Landscape Architecture practice registered with the Landscape Institute. I am a Chartered Landscape Architect and have been a professional member of the Landscape Institute since January 1990. I have a degree and diploma in Landscape Architecture from Gloucestershire College of Arts & Technology (GLOSCAT) now part of the University of Gloucestershire.
- 1.2. I have over 30 years' experience as a professional landscape architect undertaking all aspects of landscape design and assessment including landscape and visual impact assessment. I have given evidence as an expert witness on landscape matters at a variety of different planning inquiries and hearings. I have been the Managing Director of MHP Design Ltd Chartered Landscape Architects since 2009 and was previously a partner of Mitchell Harris Partnership from 2001 to 2009 and director of Paul Harris Associates from 1994 to 2001. All landscape practices have been registered with the Landscape Institute.
- 1.3. The statement that I have prepared and provide for this appeal (reference APP/B1605/W/19/3238462) is true and that the opinions expressed are my true and professional opinions.

2. SCOPE OF EVIDENCE

- 2.1. This Proof of Evidence has been prepared to consider the landscape and visual effects arising from the proposed development comprising:

'Residential development of up to 25 dwellings, associated infrastructure, open space and landscaping, with the creation of new vehicular access from Kidnappers Lane. Demolition of existing buildings.'

- 2.2. The appeal proposals were lodged on the grounds of 'non-determination' of outline planning application (LPA ref: 19/00334/OUT) submitted to Cheltenham Borough Council on 19th February 2019. Putative reason for refusal 1 is pertinent to landscape and visual matters and states the following:

'The 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 at Leckhampton through the ability to see upper storeys and roofscapes.

The proposal therefore conflicts with Policies SD4; SD6 and SD10 of the Gloucester, Cheltenham, Tewkesbury Joint Core Strategy 2011-2031 and Policies CO1 and CP7 of the Saved Cheltenham Local Plan.'

- 2.3. My proof of evidence challenges the extent and nature of the landscape effects predicted in the Council's putative reason for refusal (1) and at the same time addresses comments and objections made by Leckhampton and Warden Parish Council to the outline application. Both the Council and the Parish Council draw on observations and comments raised by Inspector Bridgwater in the previous appeal decision (APP/B1605/W/17/3178952) for development of

up to 45 dwellings. I will also address the previous Inspectors comments but in the context of the reduced development proposals being considered at this appeal.

3. LANDSCAPE POLICY AND GUIDANCE

National Policy and Guidance

3.1. National Planning Policy Framework (NPPF Feb 2019) in paragraph 170 states that:

'Planning policies and decisions should contribute to and enhance the natural and local environment by:

a. Protecting and enhancing valued landscapes, sites of biodiversity or geographical value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

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

3.2 Inspector Bridgwater in the previous appeal acknowledged that:

'The appeal site is not within or immediately adjacent to and 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'.¹

3.3 Other than changes to the references within the NPPF (paragraph 109 has been replaced with paragraph 170), this statement remains true. The appeal site and its surrounding area is not covered by any landscape designation. The site has not been identified as a valued landscape but lies within an area identified as valued having regard to paragraph 170(a) of the Framework. NPPF Footnote 6 identifies the policies where a stricter approach might be taken but none of these apply to the appeal site.

¹ CD H7a Paragraph 17 page 3

3.4 It is also pertinent to this appeal that the development of the appeal site would not result in loss of native trees and hedgerow or loss of best and most versatile agricultural land. In a location where development is constrained by Green Belt and the designated landscape of the Cotswolds AONB the appeal site provides a rare opportunity for development that can comply with the intentions of paragraph 170.

Local Policy (Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031)

3.5 Core Strategy policy SD4 Design Requirements states:

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

ii. Legibility and Identity

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

iii. Amenity and Space

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

iv. Public Realm and Landscape

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

v. Safety and Security

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

vi. Inclusiveness and Adaptability

New development should provide access for all potential users, including people with disabilities, to buildings, spaces and the transport network, to ensure the highest standards of inclusive design. Development should also be designed to be adaptable to changing economic, social and environmental requirements'

3.6 The appeal proposals are in outline with all matters of detail reserved allowing the Council to influence details, finishes and layout should they consider this beneficial to the design. The appeal illustrative Masterplan ²(Dwg 300.P.3 Rev.K dated 20.08.18) supported by the Landscape Strategy Plan³, illustrate one option which has been designed to respond positively to local surroundings and distinctiveness.

3.7 Core Strategy Policy SD6 Landscape states:

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

2. Proposals will have regard to local distinctiveness and historic character of the different landscapes in the JCS area, drawing, as appropriate, upon existing Landscape Character

² CD A4

³ Appendix D Figure 1

Assessments and the Landscape Character and Sensitivity Analysis. They will be required to demonstrate how development will protect, enhance landscape character and avoid detrimental effects on types, patterns and features which make a significant contribution to the character, history and setting of a settlement or area.

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

3.8 The design process that underpins the appeal proposals has been informed by existing landscape character assessments as set out in the Landscape and Visual Impact Appraisal (LVIA)⁴ forming part of the planning application. This assessment considered a hierarchy of assessments from the wider district landscape character to local landscape character assessment. In addition, the weight given to local landscape and visual sensitivity by Inspector Bridgwater has been recognised in these proposals.

3.9 Core Strategy Policy SD7 'The Cotswolds Area of Outstanding Natural Beauty' states:

All development proposals within the setting of the Cotswolds AONB will be required to conserve and, where appropriate, enhance its landscape, scenic beauty, wildlife, cultural heritage and other special qualities. Proposals will be required to be consistent with the policies set out in the Cotswolds AONB Management Plan.'

3.10 Although not identified in the putative reasons for refusal, it is pertinent that the application LVIA was mindful of Policy SD7 by giving full consideration to views into and out of the Cotswolds AONB, in accordance with the AONB management plan.

3.11 Retained Policy CO1 Landscape Character of the Cheltenham Borough Local Plan 2006 states:

'Development will only be permitted where it would not harm:

⁴ CD A16

(a) attributes and features which make a significant contribution to the character, distinctiveness, quality and amenity value of the landscape; and

(b) the visual amenity of the landscape'

3.12 Policy C01 does not allow any harm to the visual amenity of the landscape or to its attributes or features which make a *significant contribution* to character, even if such harm is balanced by enhancement or other benefits arising from the development.

3.13 As the appeal site was formerly an active nursery with structures and features that occupied the openness of the present site, I do not consider the openness of the current site to have made a significant contribution to local landscape character or distinctiveness. In my opinion the native hedges and trees that border the site do make a significant contribution and these are being fully retained and reinforced with additional landscaping. As such, the identified landscape harm arising from the development of the appeal proposals is not in my opinion associated with harm to attributes or features that make a '*significant contribution*' to the character or distinctiveness of the landscape.

3.14 Retained Policy CP7 Design of the Cheltenham Borough Local Plan 2006 states:

'Development will only be permitted where it:

(a) is of a high standard of architectural design; and

(b) adequately reflects principles of urban design; and

(c) complements and respects neighbouring development and the character of the locality and/or landscape'

3.15 The appeal proposals are in outline with all matters reserved allowing the Council to influence final form and layout, details and choice of materials. The appeal proposals as set out in outline, provide one option that responds to the local changing pattern of settlement, scale, and character of the locality. The appeal proposals suggest a design option that respects the character of the existing local spaces and local visual amenity as well as respecting neighbouring development.

3.16 The policies stated above are general and broad brush policies that can be applied to all development in all areas. They require development proposals to be guided by landscape character assessments and for design to respond to local distinctiveness by conserving those attributes and features that make a *significant* contribution to the character, distinctiveness, quality and amenity value and visual amenity of the landscape. This proof of evidence sets out how the outline appeal proposals address matters of sensitivity and acknowledge the observations made by Inspector Bridgwater.

4. SITE DEVELOPMENT AND DEVELOPMENT PROPOSALS

4.1. The appeal site remains much as it was at the previous inquiry in February 2018. That is the area of the appeal site is approximately 1.3 ha and comprises an irregular shaped area of flat land that was formerly a commercial plant nursery. It has some remaining low level structures and areas of hardstanding still evident within the site and as recognised by Inspector of the previous appeal is predominately open away from its boundaries.

4.2 The site remains bounded by established hedgerows on its western and southern boundaries with a partly open field boundary to the north abutting agricultural land beyond. To the eastern boundary is an adjacent former plant nursery with a number a retained horticultural structures which are now commercially redundant. Two dwellings are located on the eastern boundary comprising 'The Bungalow' and Charltyne'.

4.3 The Inspector of the previous appeal stated in his paragraph 15 that:

***'To the eastern boundary is an adjacent plant nursery complex that contains a number of horticultural structures.'*⁵**

4.4 The Inspectors observation did not acknowledge the two private dwellings (The Bungalow and Charltyne) or the redundant nature of the former commercial nursery land. These dwellings are located immediately adjoining the appeal site and share the proposed access to Kidnappers Lane. A low domestic wall with house name plates fixed to a low brick pier confirm this use as an existing domestic access for two properties. In paragraph 21 of the former appeal decision, the Inspector considers visual harm from Kidnappers Lane but makes no reference to this existing domestic use and the potential for domestic paraphernalia such as refuse/recycling out for collection. The Inspector also does not acknowledge the poor quality of the view into the site towards the domestic dwellings which in my opinion makes little contribution to local visual amenity particularly when considered in the context of the open view to the south of Kidnappers Lane⁶

⁵ CD H7a paragraph 15 page 3

⁶ Appendix B Figure 6

- 4.5 The appeal site remains generally contained by existing screening boundary vegetation/hedgerows and trees within and around the site as identified by the Inspector of the previous appeal⁷. No changes have occurred to the northern boundary which remains predominately open other than towards the boundary with Lott's Meadow where a cluster of larger trees create enclosure particularly in association with the existing hedgerow that separates the appeal site from Lott's Meadow.
- 4.6 Inspector Bridgwater found the appeal site to be a semi derelict condition but that it had 'local aesthetic value' due to its openness. I accept that the site is open at present as most former nursery structures have been demolished but it is my view that the site has only limited aesthetic value at most. The retained trees within the appeal site have limited aesthetic qualities, as do the site structures, remnant hardstandings and entrance arrangement with Kidnappers Lane. The greatest aesthetic value is limited to the established hedgerow boundaries which remain unchanged by the appeal proposals.
- 4.7 The openness of the present appeal site is only seen at ground level in part from the wide existing entrance onto Kidnappers Lane⁸. Views from the north do not see the actual land and its finishes as this is obscured by boundary or intervening established vegetation. The openness of the present site in my opinion has limited aesthetic value but does facilitate a limited number of views across and over the site to elevated features which are beyond such as Leckhampton Hill or established local vegetation along Kidnappers Lane and the boundaries of Lotts Meadow. Even from Lott's Meadow views are only seen over and above the boundary hedgerows with little or none of the existing site features seen.

Development Proposals

- 4.8 The present appeal proposals have been developed in response to the issues tested at the previous planning appeal. The previous appeal proposals were for up to 45 dwellings over the same site area as the present appeal for 25 dwellings. This is the first of a number of significant changes to development proposals intended to address previous areas of concern where weight was given by Inspector Bridgwater to specific areas of landscape and visual sensitivity.

⁷ CD H7a paragraph 19 page 4

⁸ CD A16 Refer to Viewpoint Photograph 6 Figure 6 Appellants LVIA

- 4.9 Inspector Bridgwater in his Appeal Decision identified visual harm arising to local views from a combination of the cumulative effect of the height and overall scale and density of the 45 dwelling scheme. These views were identified from Lotts Meadow, Kidnappers Lane and from the public right of way to the north of the site.
- 4.10 With regard to landscape character, Inspector Bridgwater identified harm arising from the 45 dwelling scheme appearing as an *'island of dense development, visually divorced from the urban edge of Cheltenham.'* Overall Inspector Bridgwater concluded that the previous 45 dwelling 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.'*⁹ In common with the appeal for application 13/01605/OUT for 650 dwellings on adjacent land, called in by the Secretary of State, Inspector Bridgwater did not identify harm to the setting of the Cotswolds AONB, or views to or from the AONB¹⁰ due to development on the appeal site.
- 4.11 The present appeal proposals are supported by drawing 18107.101 which illustrates the landscape strategy¹¹ that addresses in outline, the concerns raised in the previous appeal for 45 dwellings. With reference to the strategy, the differences from the previous appeal proposals ((Site Layout Plan 300.P.3) with the present proposals are set out below:
- a. The overall density of the development proposals has been reduced to 19.2 dwellings per hectare from 34.6 dwellings per hectare. This represents a 44% reduction in density from the previous scheme.
 - b. The lower density reduces the total number of dwellings within the site so that greater external space is available for supporting tree and hedge planting and massing of new built form is notably reduced. Both the lower density and opportunity for extensive landscaping provides greater opportunity to soften the rooflines when seen from footpath CHL/06, Kidnappers Lane and Lotts Meadow.¹²

⁹ CD H7a paragraph 27 page 5

¹⁰ CD H7a paragraph 25 page 5

¹¹ Appendix D Figure 1

¹² Local features are identified in Appendix A Figure 1

- c. An almost unbroken row of 13 terraced dwellings proposed in the previous proposals (for 45 dwellings)¹³ along the northern boundary has been reduced to a single terrace of 4 dwellings and two further detached dwellings. This reduces the mass of new built form by breaking the form and bulk of the proposals. The L shaped detached units will introduce tonal variation through the play of shade and the monotony of the roof line in the previous appeal proposal is broken by the new outline layout.
- d. The massing of the proposed dwellings along the northern margin of the appeal site has been changed to create a sympathetic edge to the development in association with new native hedge and tree planting. Sufficient space is maintained to establish new hedgerow with native trees to soften the effect of the new built form on the view from footpath CHL/06.
- e. The previously proposed 6 dwellings that formed a cluster around the site entrance have now been reduced to two dwellings. These have been set away from the southern boundary with Lotts Meadow to provide greater space for tree and hedge planting. This will mitigate potential views of roof structures from Lotts Meadow and provide a stronger semi-rural character to the appeal site entrance onto Kidnappers Lane.
- f. A larger area of public open space is provided within the layout of the present appeal proposals. This is intended to reduce the mass of the development seen from both Kidnappers lane and Lotts Meadow. The greater availability of space provides a practical area for tree planting.
- g. The present appeal proposals reduce proposed development along the western boundary providing space for strong native hedge and tree planting. This planting will visually associate with both the mitigation planting along the southern boundary with Lotts Meadow and the planting of the internal public open space, reinforcing a well treed character to the site when seen from external viewpoints including Kidnappers Lane and Lotts Meadow.

¹³ CD H7b

- h. The appeal proposals include a more meandering and informal access road allowing tree planting to limit deep views into the site so that only limited parts of the development can be seen from any single location.

4.12 The individual and cumulative effects of the changes identified above are intended to achieve the following design objectives in a direct response to observations of the previous appeal proposals:

- Achieve an overall reduction in built form so that the mass, density and scale of the development are notably reduced when seen in local views particularly from Kidnappers Lane and footpath CHL/06.
- Achieve a well treed development so that where built form is seen, it is experienced within a well treed backdrop that breaks the rooflines and limits deep views into the site.
- Create stronger boundaries to the west and the north to practically support the planting of native hedges and trees as part of a green infrastructure that forms an extension to the existing green infrastructure of the immediate and wider area. This reduces reliability for long term screening on the existing conifer hedge beyond the site ownership, adjoining Kidnappers Lane.
- Create a site entrance that has a semi-rural character with more limited views of new built form seen from Kidnappers Lane.

4.13 The effect of design changes on local views are described below. Photomontage presentations are also included in my Appendix B to assist interpretation. These have been prepared in accordance with guidance provided by the Landscape Institute and are representative of worst case winter views. Existing views and views at eight years after completion are presented. Views in summer of built form have potential to be notably reduced due to the extent of deciduous tree and hedgerow foliage.

The effects of design changes in views from Lotts Meadow

- 4.14 Please refer to Photomontage illustrated in Figure 4 Appendix B. From Lotts Meadow to the east of the appeal site, the existing hedge will remain a prominent screen of the site and any development features. New tree planting to the north of the hedge will strengthen and increase tree canopy seen within the site but notably the roofline of new built form is predominately screened by existing vegetation. Where new built form is seen, it appears consistent in height and character with the roof of the existing dwelling 'The Bungalow'. The hedge provides a good example of how mitigation along the northern appeal site boundary might work to reduce views when fully established.
- 4.15 It is accepted that all mitigation planting takes a minimum period to achieve full mitigation. Although growing conditions are likely in my opinion to give rise to close to optimum growing conditions in this location (in terms of soil, water availability and micro climate) the proposed dwellings closest to the southern boundary remain well set back. This is to reduce the potential views of the roofs seen from Lotts Meadow. The low density of the proposed development along with the design of the layout and opportunity for internal tree establishment would almost certainly screen any views of the roofs of buildings to the north of the two frontage dwellings.
- 4.16 From Lotts Meadow south of the appeal site, the existing established hedgerow will continue to screen all low and high level views into the site. A limited view of the roofs may be visible similar in effect to the views from the east, but these would be seen through a veil of new tree canopy when established.
- 4.17 As the single storey dwellings presently located to the east of the appeal site are generally screened in all but ridgeline, in views from Lotts Meadow, the same would be true of the proposed garage block and any structures associated with the proposed pumping facility. This is generally confirmed in the photomontage Figure 4 Appendix B.

The effects of design changes in views from the public footpath north of the appeal site

- 4.18 Please refer to Photomontages illustrated in Figures 2 and 3 Appendix B. From the public right of way north of the appeal site the new built form is seen within and against the backdrop of trees and hedges that form much of the landcover in the view. The extent to which new built form may be seen will change according to viewing location with potentially greater views

into the development seen closer to Kidnappers Lane. From closer to Robinswood Cottage the view of new built form is generally reduced. In all views from footpath CHL/06, Leckhampton Hill remains predominately unobscured with only a slight loss of the view at the point where the hill is seen to ascend from the well vegetated landcover that generally obscures the transition of the hill from the vale.

- 4.19 The 4 dwelling terraced unit and two detached dwellings would be partly seen over new native hedge and tree planting proposed along the northern boundary of the site. The view of the built form would decrease as the hedgerow and hedgerow trees established. Although built form would still be seen, it would be seen in the context of a well treed setting including established trees beyond the site. The photomontage illustrates winter conditions at approximately 8 years after planting but the established hedgerow adjoining Lotts Meadow provides an indication of potential ultimate manageable size.
- 4.20 Leckhampton Hill remains visually prominent with new settlement features seen within a well vegetated vale landscape. The change to the landscape character is limited, reflecting the frequently seen lower density settlement set within a well vegetated setting, against the rising escarpment of the Cotswolds. The overall character remains semi-rural and edge of settlement even though built form is a feature in the view.
- 4.21 In the medium term the setting in which the current view is experienced will be changed by the development of the Miller Homes land and by the construction of the new secondary school. The Preliminary Masterplan presented at public presentation by Miller Homes is illustrated in Figure 1 Appendix C. The location of the new school and of the appeal site have been marked onto the plan to assist orientation. Even with the development of new settlement to the immediate rear of the viewpoints on footpath CHL/06¹⁴, views across the appeal site will remain semi-rural in character, experienced from within a settled landscape.
- 4.22 Footpath CHL/06 joins onto Kidnappers Lane at a short distance from the proposed new school and its pupil and community entrance onto Kidnappers Lane as illustrated in application. ¹⁵ The character and the setting of the footpath are therefore quite likely to

¹⁴ Viewpoint locations for photomontages are shown in Appendix B Figure 1

¹⁵ Appendix E Figure 4

change in the future as these developments are commenced. The overall landscape character will remain semi-rural but the balance of urbanising features to rural features will be changed.

The effects of design changes in views from Kidnappers Lane

- 4.23 Inspector Bridgwater stated that 'proposed dwellings around the site entrance could be architecturally designed to reflect the appeal site's semi-rural setting.'¹⁶ By limiting built form to 2 dwellings and increasing space for tree and hedge planting there is considerable scope to achieve a semi-rural character to the development which would be experienced in views from Kidnappers Lane. This would include views experienced travelling both north and south along the lane.
- 4.24 Overall, the changes made to the appeal proposals from the previous appeal scheme are considerable, reducing the number of dwellings that are proposed and maintaining an open frontage to allow scope for tree and native hedge planting. The opportunity to establish new native hedgerow with trees along the site frontage would in my opinion strengthen the semi-rural character of the lane and assist with softening not only the potential effects arising from the development but also softening the impact of the 3.5m wide cycleway/footpath proposed as part of the new school development at the appeal site entrance.

¹⁶ CD H7a paragraph 21 page 4

5. LANDSCAPE CHARACTER AND LOCAL CONTEXT

5.1. Core Strategy Policy SD6 Landscape requires that development should have regard for local distinctiveness, drawing as appropriate upon existing landscape character assessments. The appellants LVIA¹⁷ sets out the hierarchy of published landscape character assessment which identifies the appeal site as located within National Character Area NCA 106 Severn and Avon Vales.

5.2 Statements of Opportunity for the NCA 106 include:

- Protect and manage the landscape, heritage and biodiversity...
- Seek to safeguard and enhance this areas distinctive patterns of field boundaries, ancient hedgerows, settlements, orchards, parkland, small woodlands, chases, commons and floodplain management..
- Reinforce the existing landscape structure as part of any identified growth of urban areas, hard infrastructure and other settlements ensuring quality green infrastructure is incorporated enhancing health, access, recreation, landscape, biodiversity and geodiversity...

5.3 Key drivers of change relevant to the contextual setting of the appeal site are identified to include:

- Traditional orchards have declined and been lost
- The orchard tree age structure is too limited..
- Loss and deterioration of hedges is ongoing. The loss of hedgerow trees and failure to nurture a new generation of hedgerow trees has created some very open areas...

5.4 The appeal proposals do not identify as a driver for change within the publish assessment and new hedgerow and tree planting to reinforce the quality of the landscape structure is fully in accordance with the identified Statements of Opportunity.

5.5 At a more local level, the appellants LVIA identifies the appeal site to fall within the district landscape character type SV6B Vale of Gloucester sub area of the wider Settled Unwooded

¹⁷ CD A16 page 12 onwards

Vale. The LVIA identifies the key characteristics which reflect the semi-rural character formed by a balance of urban and rural elements which are set out on page 14 of the assessment.

- 5.6 These characteristics are also identified in the area A: Leckhampton Character Area as identified in the JCS Landscape Characterisation Assessment and Sensitivity Analysis and include: *'Enclosed almost entirely by built form in the north, west and east, with the Cotswolds AONB Escarpment directly to the south and south east, the area is further enclosed at a local scale by a strong and varied tree structure, albeit confined to field boundaries and remnant orchards.'*¹⁸
- 5.7 Much has been stated of the distinctive landscape character of the area lying generally between Shurdington Road in the north and Church Lane to the south but it is clear that the landscape in which the appeal site is located also reflects a more general landscape character associated with the wider Settled Unwooded Vale.
- 5.8 The appellants LVIA goes on to identify the components of the local landscape which it identifies to include; undisturbed agricultural field parcels, allotments, former nurseries, recreation grounds, small holdings, vegetative belts, watercourses and associated vegetation and semi-rural lanes. This collection of landscape elements together create a mosaic of rural and urban features as identified by Inspector Bridgwater in the 45 dwelling appeal.
- 5.9 Inspector Bridgwater summarised the character of the area as he experienced it at that time: *'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.'*¹⁹ It was with this landscape context that the Inspector informed his decision making.
- 5.10 The Inspector accepted that 'settled features' also formed part of the mosaic of components that contributed to the semi-rural character but notably did not make any observations on the proposed allocation of residential development land, through the emerging Cheltenham Local Plan to the north of the appeal site. I accept that as limited details were available to the

¹⁸ CD A16 page 15 bullet point 2

¹⁹ CD H7a paragraph 18 page 3

Inspector he could not assess potential changes to the landscape baseline which might influenced his decision making particularly with regard to matters of incongruous or isolated development and density of settlement.

- 5.11 This has now changed with the publication of the preliminary masterplan for Miller Homes development on Leckhampton 'Northern Field' as illustrated in Appendix C Figure 1.
- 5.12 The preliminary masterplan illustrates the design principles of new medium density settlement juxtaposed with new public open space, extending up to Kidnappers Lane and Robinswood Field. Existing Public right of way (CHL/6) maintains its alignment but immediately adjoins the proposed development adjacent to Robinswood before becoming incorporated into new public open space to the north of Lotts Meadow.
- 5.13 Inspector Bridgwater found that the previous appeal proposals would have its most significant and harmful effect when viewed from this public footpath. However, he made no mention of the potential changes to the landscape in this location which in my opinion would have influenced the setting from which these views were experienced. In particular, walkers using the footpath will have had greater exposure to settlement features to the extent that new settlement features seen within the context of the appeal site would certainly not be seen to be incongruous with the surroundings.
- 5.14 Settlement features throughout would be seen in the context of a well vegetated landscape retaining a sense of semi-rural character. However, the setting of the footpath to the north of the appeal site will have changed considerably from that experienced by Inspector Bridgwater and used to inform his decision making.
- 5.15 At the time of the previous appeal, development of new dwellings along Farm Lane had only recently commenced. Approved development on Farm Lane has now progressed to the point where an almost continuous band of settlement extends from the A46 at its union with Kidnappers Lane, along Farm Lane to link with existing settlement on Church Lane. Setting aside political or planning boundaries this in landscape and visual terms establishes a new settlement edge to Cheltenham created by the influence of the established Green belt and AONB boundaries. Please refer to my Appendix A Figure 1.

- 5.16 I accept that this new settlement edge to the south of Cheltenham has only a limited effect on the appeal site, but it does introduce further settled features of higher density some of which can be partly seen from Kidnappers Lane²⁰. This is a change to the landscape not present when Inspector Bridgwater considered the 45 dwelling scheme and introduces visual connectivity between the appeal site and other settlement dwellings other than those already within the wider site.
- 5.17 The introduction of new settlement features contributes to the balance of the 'mosaic of rural and settled features' and in my opinion should be considered a change to the landscape baseline against which decision making is made. Again, this does not change the semi-rural character of the area but introduces new settlement features which changes the balance to one of a more settled landscape where the presence of new suburban built form is not as incongruous as assessed by Inspector Bridgwater. It is pertinent that at a district wide scale this edge of settlement character remains characteristic of the Settled Unwooded Vale landscape character type.
- 5.18 A further significant proposed change to the landscape and visual baseline against which development of the appeal site should be considered is the proposal for a new 900 pupil secondary school off Kidnappers Lane. The application (19/0058/CHR3MJ) submitted by Gloucestershire County Council is presently being considered and when approved it is intended for the school to be operational before the end of 2021. My appendix E includes application landscape masterplan and artist impressions to inform on general arrangement and massing as well as providing proposals for changes to Kidnappers Lane including the provision of a 3.5m wide combined pedestrian footpath and cycleway linking directly to the appeal site and to footpaths both north and south of the appeal site on Kidnappers Lane. The combined footpath/cycleway continues to Vineries Close and completes a link to existing footpaths in Leckhampton/Church Lane.²¹
- 5.19 The key changes that the proposed development introduces which are of particular relevance to the appeal site, I set out below:

²⁰ Refer to Appendix B Figure 6

²¹ Refer to Appendix A Figure 1 for context

- Contemporary two storey buildings will be constructed along Kidnappers Lane, linking the existing settlement features adjoining the appeal site to the wider settled area. Refer to Appendix E Figure 2 for elevation of proposed school onto Kidnappers Lane.
- A new school entrance will be provided (for both pupils and community out of normal school hours access) on Kidnappers Lane requiring lighting to maintain a safe environment.
- Sports pitches including proposed all weather surfaces with floodlighting are proposed to the rear of the school along Farm Lane. These will introduce activity and increase potential lighting in the area seen from Kidnappers Lane. Refer to Appendix E Figure 1 for masterplan showing pitch location.
- New pedestrian footpaths are proposed including along Kidnappers Lane to facilitate safe access to school for pupils travelling from Leckhampton and wider Cheltenham including through Lotts Meadow. Please refer to Appendix E Figures 4 and 5 for extracts of off site works proposed on Kidnappers Lane, east of the school.

5.20 The introduction of the school and its associated features will not change the overall sense of semi-rural and edge of settlement location, but it will contribute to and change the balance of the 'mosaic of rural and settled features'. The introduction of a new pedestrian footpath along Kidnappers Lane with associated new lighting and activities associated with children on a key route to school will reduce the rural character and tranquillity of the lane and put the appeal site close to the new focal point of the community. The school is likely to be a focal point in the community because of its activities which will draw adults and children from a wide catchment area. The existing road network including Farm Lane and Kidnappers Lane will provide direct and robust connectivity in association with a network of existing and proposed local footpaths to both existing and proposed residential areas and the wider residential communities in Leckhampton and Cheltenham.

5.21 The proposed new pedestrian footpath along Kidnappers Lane is illustrated in application plans included in my Appendix E.

5.22 The cumulative effect of changes to the character and appearance of the local landscape through the further development of Farm Lane and proposed development of the Northern Fields and School on Kidnappers Lane are in my opinion downplayed by the Council. The

balance of the mosaic of rural and settled features will change with new settlement features being more prominent and of greater density. These will still be seen in the well treed context of the present landscape and seen in the background context of Leckhampton Hill. As such, the local landscape character and general nature of local views will remain semi-rural and edge of settlement in character, in keeping with the general characteristics of the Settled Unwooded Vale character area. Lower density development within the well vegetated context of the appeal site will not be seen to be isolated or incongruous suburban development but rather part of a settled landscape with strong sense of place through its connectivity with Kidnappers Lane. It is also worth noting that Vineries Close and Rectory Court residential areas to the south of the appeal site also directly access onto Kidnappers Lane, introducing urbanising features but retaining a sense of semi-rural landscape character to the lane.

5.23 The Council's putative reason for refusal 1 relies on the view that the appeal proposals will still appear a separate enclave of development without connectivity to nearby residential development and that the appeal proposals are out of keeping with the semi-rural settlement form, density and pattern of the locality. In addition, they state that 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. This assessment in my opinion does not take into account existing similar developments (such as Rectory Court, Leckhampton Farm Court and Vineries Close)²² and the changing balance of urban and rural features within this edge of settlement landscape. The significant changes incorporated into the appeal proposals in addition to the emerging allocation of residential development land and the current application for a 900 pupil Secondary school are significant changes to the baseline which do not appear to have been taken fully into consideration either in the appeal for the 45 dwelling scheme or the Council's assessment of the current appeal proposals.

5.24 Landscape comments provided to the Council by Mr Ryder²³ include a comparison of the current appeal scheme with the previous scheme for 45 dwellings. The observations he makes in the summary of change are important changes to the development proposals for the appeal site.

²² Refer to Appendix A Figure A plan for context

²³ CD A29 Appendix 1 pages 7 and 8

- 5.25 Of the houses around the entrance he confirms that there has been a *'reduction in quantum of development visible when looking down site entrance'* and that the road form *has been downplayed in development'*. He also notes that there has been an *'increase in tree planting and enlargement of central public open space by 46%* and that there would be *'less immediacy to seeing upper storeys and roofs immediately behind hedge when viewed from Lotts Meadow'*.
- 5.26 Mr Ryder also notes that of the north western boundary that there would be *'a more varied building line'* but he does not acknowledge that the number of dwellings has been reduced from 13no. to 6no in this location. This is a significant reduction.
- 5.27 These are significant changes to the appeal proposals which reduce landscape and visual effects of development which appear not to have been given sufficient weight in the Council's assessment.
- 5.28 In Mr Ryder's observation to the Council he acknowledges the land proposed for residential development in the emerging Cheltenham Local Plan as well as the location of the new secondary school which at the time of writing his comments was at a pre application stage. The secondary school application is now at application stage with full details submitted for scrutiny. Mr Ryder acknowledges that the school is likely to have an urbanising effect on Kidnappers Lane but suggests that the degree of which will depend on where the school's buildings and playing fields will be sited. Although he calculates that the school will only be 200 metres from the appeal site entrance he assesses that *'the stretch of Kidnappers Lane that the Application Site (now Appeal Site) is set off will likely remain unchanged by the housing and school allocations.'*
- 5.29 I accept that Mr Ryder may not have had the full application details for the school or the preliminary masterplan for the Miller Homes land at hand but if he had he would have seen that Kidnappers Lane is identified as a key route to school and will require a new 3.5m wide footpath/cycleway and lighting which will link directly to the appeal site entrance. This route is a key route for children from Leckhampton and wider Cheltenham and will include a link to Lotts Meadow. The appeal site is therefore located on a proposed key school route which will provide robust connectivity to Leckhampton and wider Cheltenham.

- 5.30 In addition it is notable that the school proposals include floodlit all weather sports pitches located at the most southern area of the school grounds. Although school buildings may not be seen from the appeal site and Kidnappers Lane at the appeal site entrance, it is likely that these will be identifiable and that sounds arising from the use of the school grounds and playing fields will be audible at the entrance to the appeal site. These may not be significant matters, but they are changes which effect the balance of rural and settled features and illustrate that the appeal site is robustly connected to this developing area of Leckhampton at Kidnappers Lane.
- 5.31 With regard to the allocated housing north of the appeal site, Mr Ryder acknowledges the extent of the allocated land in his plan extract but fails to assess that future two storey development is likely to have visual connectivity with the appeal site. Again, this visual connectivity would be experienced within the well treed landscape which is seen to drift between the various parcels of settlement and is a feature of the local green infrastructure and its associated open spaces.
- 5.32 Mr Ryder makes significance of the separation of the appeal site from other settlement features including the school site and the housing land. However, I note that the northern most parcel of development proposed in the Miller Homes preliminary masterplan²⁴ is also separated by green corridors and gaps and does not physically join existing settlement. Indeed, the green gaps and corridors incorporated into the masterplan seem to emulate the landscape character of the area with the mix of settlement laced with corridors of green infrastructure. This connects directly into Lotts Meadow which wraps around the appeal site directly connecting the two residential areas through green open spaces.
- 5.33 I accept that the Miller Homes Preliminary Masterplan does not reflect the dispersed pattern of low density settlement previously identified as a component of the traditional landscape character but it does maintain a distinct sense of place that incorporates the proposed local green spaces meaningfully into the local green infrastructure so conserving a semi-rural character to this location on the edge of Cheltenham.

²⁴ Appendix C Figure 1

6. APPEARANCE AND VIEWS

- 6.1 Leckhampton and Warden Hill Parish Council make clear in their letter of objection²⁵ that not all development on the appeal site is considered unsuitable. They state that the appeal site was *'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 by high trees along Hatherley Brook and on its south side facing Leckhampton Hill.'*²⁶
- 6.2 The Parish Council go further and state 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 it is a converted farm and farmyard and that it is moderately well screened by high trees along Hatherley Brook and on its south side facing Leckhampton Hill.'*²⁷ Leckhampton Farm Court is located on Farm Lane and is identified in Appendix A Figure 1 with a larger aerial photograph provided in Appendix 1 Figure 2.
- 6.3 As Leckhampton Farm Court has been specifically identified as an example of how a development can be successfully integrated into the semi-rural landscape, it is my view that the development can be used as a guide as to what form of development is acceptable when considering the appeal proposals.
- 6.4 The first feature to note with reference to Leckhampton Farm Court is that when it was developed it was isolated from adjoining residential development. Although development west of Farm Lane is now being constructed, Leckhampton Farm Court was acceptable as an isolated enclave of residential dwellings without connectivity by pedestrian path.
- 6.5 The second feature of Leckhampton Farm Court is that although the development incorporated an existing farm building and farmyard, the layout of new dwellings and external spaces do not reflect this heritage when seen either on the ground or in aerial view. The development appears as a cluster of large modern buildings based around a

²⁵ CD A29 3rd paragraph page 4

²⁶ CD A29 2nd paragraph page 4

²⁷ CD A29 3rd paragraph page 4

contemporary entrance with formal turning circle and ornamental weeping willow.²⁸ This arrangement is not notably rural in form.

6.6 Although native hedgerow has been planted along Farm Lane, it is set behind a dwarf drystone wall of suburban character²⁹. The new dwelling located to the immediate east of the entrance from Farm Lane is a tall two storey dwelling set close to the boundary and the lane³⁰. As such its upper structure and roof is prominent in views from the lane³¹. It is also notable that the building lies between views from Farm Lane to Leckhampton Hill. The dwelling is seen breaking the skyline and screening views of the Cotswold escarpment to the east³². There appears to have been no overarching requirement to screen all elements of the built form seen from public rights of way or Farm Lane.

6.7 Within the Leckhampton Farm Court development, expansive tarmac road finishes are seen and the development generally has an urban character³³. Around the perimeter of the development it is very notable that many of the properties have open boundaries without hedges or significant trees³⁴. Dwellings are located close to the boundaries particularly to its northern boundary giving them open aspects over the adjoining fields. Where planting has been undertaken it appears frequently ornamental in character. Again, there appears not to have been an overarching requirement to screen built form within the development and reliance made on established vegetation beyond the ownership of the properties.

6.8 Of particular relevance is the location of the adjoining public right of way to the north. This forms part of the Cheltenham Circular Walk, an important local walk that circumnavigates Cheltenham and is identified in my Appendix A Figure 2 aerial photograph. The walk passes directly to the north of Leckhampton Farm Court, the buildings and vegetation of which partly obscure views of Leckhampton Hill from the footpath. Views into domestic gardens are also seen from the Cheltenham Circular Walk and dwellings and their roofs are quite open and prominent in views.

²⁸ Refer to photograph Appendix A Figure 5

²⁹ Refer to photograph Appendix A Figure 5

³⁰ Refer to photograph Appendix A Figure 6

³¹ Refer to photographs Appendix A Figure 3 and 7

³² Refer to photograph Appendix A Figure 3

³³ Refer to photograph Appendix A Figure 5

³⁴ Refer to photograph Appendix A Figure 4

- 6.9 The aerial photograph shows that the vegetation associated with Hatherley Brook is set some distance to the east³⁵ and trees on the south side are only found closer to Farm Lane. Trees associated with Hatherley Brook and to the south of Leckhampton Farm Court are deciduous in character and are likely to provide only a limited screen in views from Leckhampton Hill. It is also notable that the development lies closer to Leckhampton Hill than the appeal site so is likely to have features which are more distinguishable from the elevated viewpoints of Leckhampton Hill.
- 6.10 I accept that from the elevated viewpoint of Leckhampton Hill and the AONB the landscape of the Severn Vale is widely seen in panoramic views³⁶ where settlement is a component of the 'Settled and Unwooded Landscape Character' and that this may include the appeal site. The Secretary of State agreed with the Inspector in the appeal for 650 dwellings on adjacent land (APP/B1605/W/3001717) that even though development could be seen there was no harm resulting to the setting or views to or from the AONB.³⁷
- 6.11 The Parish Council have provided Leckhampton Farm Court as an example of what might form acceptable development in the semi-rural context of the area and I now compare the appeal proposals with the development features of Leckhampton Farm Court to assist the Inspector in a comparison:
- a. Leckhampton Farm Court was developed around a former farm and utilised land associated with the former farmyard. The appeal site is developed on a former nursery and utilises land associated with the former nursery. The appeal sites use as a former nursery has no greater value to the mosaic of rural and settled features than a former farmstead in my opinion.
 - b. Leckhampton Farm Court was isolated from other settlement features to a far greater extent than the appeal site which retains a strong association with Kidnappers Lane and the associated dispersed and clustered local settlement. Future changes as part of the school and

³⁵ Refer to photograph Appendix A Figure 4

³⁶ Please refer to Appellants LVIA Viewpoint Photographs 13, 14 & 15 CD A16

³⁷ CD H7a paragraph 25 page 5

Miller Homes land developments will further integrate the appeal site into what will become a focal point for the community.

- c. Leckhampton Farm Court has limited containment by established vegetation and relies on established vegetation beyond its control to screen views from Leckhampton Hill. The appeal site has well established hedgerows adjoining Lotts Meadow (southern and eastern boundaries) and proposes new indigenous hedgerows to the northern and western boundaries.
- d. Leckhampton Farm Court has a number of dwellings which have open gardens adjoining farmland. The appeal site will not have any open boundaries to private gardens as all with bounded by new native hedgerow.
- e. Leckhampton Farm Court has a semi-formal entrance with circular turning circle and ornamental focal point tree with dwellings close to the boundary with Farm Lane. The appeal site sets new dwellings away from the entrance and without formal features.
- f. The built form of Leckhampton Farm Court is seen in views from the Cheltenham Circular Walk³⁸ and Farm Lane³⁹ and in places views of Leckhampton Hill (from Farm Lane and the Cheltenham Circular Walk) are partly obscured with the skyline broken by roof lines. The proposed built form of the appeal site, as illustrated in photomontage Figures 2 and 3 from footpath CHL/06 has a limited effect on views towards the hill with buildings seen to be settled into the well vegetated landscape in the middle ground of the view.
- g. Dwellings at Leckhampton Farm Court are up to two storey in height and incorporate contemporary details. Appeal proposals are for dwellings up to two storey and detailing and materials are matters to

³⁸ Refer to photograph Appendix A Figure 4

³⁹ Refer to photograph Appendix A Figure 3

be decided by reserved matters. Should the Council consider that farmstead detailing should be incorporated then such details could be agreed through reserved matters applications.

- 6.12 I do not suggest that the layout and detailing of the Leckhampton Farm Court are not acceptable in landscape or visual terms or that they do not constitute a quality development. However, there appears to be a contradiction from the Parish Council in their objections made of the appeal proposals when compared with their support of the Leckhampton Farm Court development.
- 6.13 The Parish Council in their conclusion summarise four parts to their objection, the first two parts making a case for effective screening and state that no development is feasible on the appeal site until at least 2040⁴⁰. This does not seem to have been a requirement for the development at Leckhampton Farm Court even though many of the new dwellings do not have 'farm like' characteristics. This also fails to recognise the well-established hedgerows which remain robust and effective at screening the appeal site from Lotts Meadow as confirmed by Inspector Bridgwater in paragraph 19 of his Decision.
- 6.14 In the Parish Councils 3rd summary point, the combination of the proposed low density of development and extensive potential for tree planting in addition to the existing green infrastructure will result in any development features on the appeal site, being generally indistinct seen from within the AONB and including Leckhampton Hill. Where built form is partly seen, it is my opinion that it will appear no different from the built form seen within the Leckhampton Farm Court development.
- 6.15 The fourth conclusion summary point regarding avoiding unacceptable damage to the view towards Leckhampton Hill made by the Parish Council has already been addressed by Inspector Bridgwater. He clearly states in his paragraph 25 that: *'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*

⁴⁰ CD A29 conclusion point 1 page 7

*vary as one travels along 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.'*⁴¹

- 6.16 This observation was made for the 45no. dwelling scheme which the outline proposals showed 13no. dwellings located along the northern boundary of the appeal site. The present proposals show 6no. dwellings in outline, a significant reduction from the previous appeal proposals which has been incorporated to address the harm arising from urbanising visual effects of the previous proposals. With additional space for structural planting to mitigate effects of development, the present appeal proposals will appear less urbanising and contained within a strong framework of trees and hedges as illustrated in the photomontages provided in my Appendix B.
- 6.17 Inspector Bridgwater found harm to views from Kidnappers Lane which have been address in the appeal proposals. The previous proposals illustrated a grouping of up to 6no. dwellings at the entrance to the appeal site, leaving only limited space for mitigation. The present appeal proposals reduce the scheme to two dwellings which are well set back to allow a verdant frontage to be established in keeping with the semi-rural character of Kidnappers Lane.
- 6.18 The Council's putative reason for refusal states that the appeal site will be visually separated from the edge of Cheltenham, that the highway entrance would remain an incongruous suburban type feature and that the landscape quality at Leckhampton would be reduced through the ability to see upper storeys and roofscapes. This assessment does not appear to reflect the changes that will occur from the development of the allocated residential land or the school and its associated changes to Kidnappers Lane.
- 6.19 I accept that the appeal site does not fall within Policy MD5 of the emerging Local Plan that allocates 350 dwellings to the Miller Homes land north of Kidnappers Lane and the secondary school site south of Kidnappers Lane but the changes that are likely to arise from development will in my opinion have a significant effect on the landscape and visual baseline against which assessments of the effects of the development of the appeal site should be made. The school in particular will have an urbanising effect on Kidnappers Lane, not only

⁴¹ CD H7a paragraph 25 page 5

from the implementation of a new public footpath but in particular from the activities associated with the use of the footpath and within the external areas of the school grounds. The school will become a focal point in the local area from which key routes will extend both to existing and new residential areas. The appeal site is far from separated or isolated when considered in the wider settlement pattern and is located close to the future school which is likely to become an important centre of the community.

- 6.20 In this context the sight of upper storeys and part roofscapes are not out of place in a settled landscape. Particularly where the Parish Council identify Leckhampton Farm Court as an example of successful development where upper storeys and roofscape are quite prominent in a development that is quite separated from the edge of Cheltenham. However, the photomontages provided in my Appendix B showing views from Kidnappers Lane, Lotts Meadow and to the north of the site, provide an illustration of the limited extent to which the built form of the appeal site would be seen from local viewpoints.
- 6.21 Views of Leckhampton Hill and the Cotswold escarpment from local public open spaces, lanes and footpaths are recognised as important through the contribution such views make to sense of place and to local distinctiveness. These views are not limited to Leckhampton and are widely seen within the Cheltenham area where the steeply rising landform forms a dramatic and distinct backdrop to the wider Cheltenham settlement as recognised by Inspector Bridgwater⁴².
- 6.22 These views are generally experienced whilst transient and the nature of the view frequently seen to change according to orientation and local landcover. Photomontages (Viewpoint 7 & 7A) of two views from footpath CHL/06 provide a good example of this. As the rising escarpment including Leckhampton Hill are seen from many locations, views can be experienced from Shurdington Road, Church Lane, Farm Lane, Lotts Meadow, Burrows Recreation Ground as well as many local public rights of way including footpath CHL/06 north of the appeal site. Views are perhaps more generally limited from Kidnappers Lane due to its enclosing hedgerows and trees.

⁴² CD H7a paragraph 25 page 5

6.23 The development of the Miller Homes land is likely to cause obstruction of existing views from Shurdington Road as will the construction of the school seen from Kidnappers Lane/Farm Lane. The preliminary masterplan shown in my Appendix C Figure 1 clearly suggests higher density, roadside development in association with a suggested formal avenue of trees. Both dwellings and trees in this location close to the Shurdington Road would obscure views which are presently open. I accept that greater open space could be retained adjoining the road to maintain existing views but this would require development to be located in other areas of the site if the proposed allocation of 350 dwellings is to be achieved. The development of Leckhampton Farm Court has also caused some obscuring of views towards the hill from the Cheltenham Circular Walk and from Farm Lane. When compared with the photomontages prepared from footpath CHL/06, it is clear that the appeal proposals will have a very limited effect on views of Leckhampton Hill which will remain the prominent backdrop to the setting of both Leckhampton and the wider Cheltenham area.

7. LANDSCAPE AND VISUAL EFFECTS

- 7.1 The appeal proposals were designed as part of an iterative process in response to both an ongoing landscape assessment and weight given through the previous Appeal Decision to landscape and visual sensitivities of the location. The appeal proposals were then subjected to a landscape and visual impact assessment which formed part of the planning application.
- 7.2 The appellants LVIA⁴³ assessed the landscape as it was experienced at the time of assessment in January 2019. Although the proposed school and housing allocation north of the appeal site were known, limited details were available to make any assessment on effects to local character or visual amenity. As such the LVIA assessed the revised scheme on its own merits against a landscape baseline similar to that considered at the previous appeal for the 45 dwellings.
- 7.3 Even without consideration to local changes, the landscape and visual effects arising from the appeal proposals were identified to be limited.
- 7.4 At year 1 slight adverse effects were assessed to the district and local landscape character with a moderate adverse assessed for the site itself⁴⁴. This was due to loss of openness and introduction of potentially urbanising features which would be potentially prominent before mitigation measures were established.
- 7.5 At establishment of mitigation measures only a slight adverse effect was assessed for the district, local and site character areas. This was due to the loss of openness which cannot be mitigated. The introduced built form would be well contained by mitigation measures and planting adjoining the site entrance was assessed to provide an opportunity to enhance the semi-rural character of Kidnappers Lane.
- 7.6 At year 1 moderate adverse visual effects were assessed for users of Kidnappers Lane and from footpath CH/6 north of the site⁴⁵. This was due to the limited existing vegetation and the potential prominence of new built form in the view. Slight adverse visual effects were

⁴³ CD A16

⁴⁴ CD A16 Table 1 page 23

⁴⁵ CD A16 Table 2 page 24

assessed from Lotts Meadow, walkers south of Kidnappers Lane and footpath ASH/31 Leckhampton Hill.

- 7.7 At establishment of mitigation measures slight adverse visual effects were assessed from Lotts Meadow and from footpath CH/6 north of the appeal site. A slight beneficial effect was assessed for views of the site entrance. This was due to the potential of mitigation measures to strengthen screening of built form so limiting new built form in local views.
- 7.8 Any development of new housing is likely to create some landscape harm that should be balanced against the benefits arising from the development. The harm identified through the LVIA is in my opinion limited and contained and does not reach a threshold of unacceptable harm.
- 7.9 Seeing new built form and settlement features does not imply harm in a settled landscape particularly where the landscape character is described as a mosaic of rural and settled features. It is the balance of rural and settled features and its effect on the overall semi-rural character that should be considered when assessing the threshold for unacceptable landscape and visual harm.
- 7.10 This balance of rural and settled features in the landscape of Kidnappers Lane is changing. The introduction of the school, development on Farm Lane and emerging allocation of residential development land north of the appeal site will all contribute further settlement features which alter the landscape baseline against which the appeal site should be considered.
- 7.11 My assessment of the appeal proposals is that they sit comfortably with the local change to the settlement pattern, being seen to be a low density cluster of dwellings generally contained within a green framework of trees, hedges and open spaces. This is the same framework in which the school and the potential residential development of the Miller Homes land form part of and share. The proposed Local Green Spaces particularly Lotts Meadow, remain meaningful as green corridors which improve connectivity within the community and provide a strong sense of place. They are however, part of a settled and semi-rural landscape where settlement features form part of the mosaic.

- 7.12 Landscape and visual harm arising from the development of the appeal site is limited in this context. The semi-rural character of the area is conserved even though it will experience a degree of change. The appeal proposals, although in outline, respond to the sensitivities confirmed at the previous appeal and lie comfortably in the emerging development proposals adjoining Kidnappers Lane.
- 7.13 The development of the school in particular will add greater importance to Kidnappers Lane as a key route linking both existing and future communities to the school. The location of the appeal site is linked directly to this route at close proximity to the school.
- 7.14 The appeal proposals would have inevitably localised residual effects through the introduction of housing development on to land which does not have other buildings on it other than the two existing dwellings. These effects will be limited in both extent and nature of the effects as set out in the appellants LVIA.
- 7.15 In an undesignated and settled landscape at the edge of the wider urban area, the harm arising from the appeal proposals is in my opinion limited and falls below the threshold of unacceptable harm which might justify refusal of planning. The appeal site is not located within the designated of the Cotswolds AONB where the threshold would be higher. As such the appeal proposals would not have an unacceptable impact on the character and appearance of the area.
- 7.16 Seeing development does not equate to harm as recognised by the Parish Council in their promotion of the Leckhampton Farm Court development. The mosaic of land uses that inform the local landscape character is changing with the introduction of a greater number of settlement features but the landscape remains semi-rural in character as it has capacity to accommodate settlement features. This is shown by development at Brizen Park off Farm Lane and by residential development at Vineries Close and Rectory Court. The capacity of the land north of Kidnappers Lane to accommodate up to 350 new dwellings also indicates the capacity of the local landscape to accommodate new settlement features. This is a feature of the local and district landscape recognised in its name as the Settled, Unwooded Vale landscape character type.

8. COMPLIANCE WITH POLICY

- 8.1 The harm arising from the appeal proposals does not in my opinion reach a threshold of unacceptable harm in an undesignated location at the edge of a wider urban area. Particularly where settlement features form an element of the landscape mosaic that remains semi-rural in character. The test set by paragraph 170 of the NPPF is to protect and enhance valued landscapes and to recognise the intrinsic character and beauty of the countryside. The residual harm arising from the development of the appeal proposals is limited with the main harm arising from loss of openness within the appeal site.
- 8.2 Limited visual harm to views from footpath CHL/06, Lotts Meadow and Kidnappers Lane should be balanced with the opportunity to enhance the rural character of the appeal site entrance through new native planting. Overall the appeal proposals recognise and respond to the semi-rural landscape character of the area and protect the wider area of valued landscape as required by paragraph 170 (a) of the NPPF.
- 8.3 As the appeal proposals do not have an unacceptable impact on the character and appearance of the area, there is no conflict with JCS Policies SD4, and SD6 which require development to respond to character and sense of place amongst other criteria. As the proposals have been submitted in outline with all matters reserved there remains considerable opportunity for design details to be agreed with the Council through reserved matters applications, planning conditions or obligations.
- 8.4 Similarly, the appeal proposals do not give rise to unacceptable impacts on character and appearance of the area so would not conflict with Cheltenham Local Plan Policy CP7. The threshold before unacceptable harm is reached is high in this location where proposals need to conserve a semi-rural landscape character where settlement features are a component of the local character.
- 8.5 Policy C01 requires that development will only be permitted where it would not harm:
'(a) attributes and features which make a significant contribution to the character, distinctiveness, quality and amenity value of the landscape; and
(b) the visual amenity of the landscape.'

- 8.6 As the appeal site was formerly an active nursery with structures and features that occupied the openness of the present site I do not consider the openness of the current site to have made a significant contribution to local landscape character or distinctiveness. I do believe that the boundary hedgerows and site trees make a significant contribution, but these are to be retained and reinforced with addition landscaping. As such, the identified landscape harm arising from the development of the appeal proposals is not in my opinion associated with harm to attributes or features that make a *significant contribution* to the character or distinctiveness of the landscape. I therefore do not consider the appeal proposals to be in conflict with part (a) of Policy C01.
- 8.7 Part (b) of Policy C01 imposes a rigid, binary policy requirement in that development will only be permitted where it would not harm the visual amenity of the landscape. As the LVIA identifies limited harm to local visual amenity, regardless of potential enhancements which would be taken into consideration under paragraph 170 of the NPPF, the proposals will conflict with part (b) of the policy.
- 8.8 Policy C01 predates both NPPF1 and NPPF2 which introduced an approach that allows for a balance of harm and benefit to be considered. When the limited landscape harm arising from the appeal proposals is considered against the NPPF it is my opinion that the level of harm falls below the threshold of unacceptable harm.
- 8.9 It is pertinent to this appeal that development resulting from the emerging allocation of the Miller Homes land adjoining Shurdington Lane and the school site south of Kidnappers Lane would almost certainly conflict with Policy C01 through loss or harm to existing views, attributes and features.
- 8.10 The threshold for unacceptable harm is lower when considering impacts on a designated landscape such as the Cotswolds AONB. The appeal site does not fall within the designated landscape of the AONB but falls within the setting of the AONB. Landscape assessment undertaken to inform the development of the appeal proposals considered views both to and from the AONB and no unacceptable harm to the setting of the AONB has been

identified⁴⁶. This was also the finding of Inspector Bridgwater in his Appeal Decision for the 45 dwelling scheme⁴⁷. I am therefore quite satisfied that the appeal proposals do not conflict with either paragraph 172 of the NPPF or JCS Policy SD7.

⁴⁶ CD A16 page 26/27

⁴⁷ CD H7a paragraph 25 page 5

9. SUMMARY AND CONCLUSION

- 9.1 The appeal site comprises of a semi redundant plant nursery with part demolished structures and features which make a limited contribution to the landscape character of the area. Bordering hedgerows and a limited number of site trees make a positive contribution to the semi-rural character of the area.
- 9.2 The residential properties of 'The Bungalow' and Charltyne' are located within the same former nursery site but do not form part of the appeal site. These dwellings share the same access onto Kidnappers Lane as the appeal site.
- 9.3 The appeal site is not located within a designated landscape and the site but lies within the setting of the Cotswolds AONB. The site also lies within an area recognised as being a valued landscape. The appeal site itself does not form part of the valued landscape.
- 9.4 The contextual landscape comprises of a mosaic of different land uses comprising both urban and rural features. Both urban and rural features reflect the settled character of the area on the edge of Cheltenham, typical of the wider Settled Unwooded Vale landscape character area in which the site is located.
- 9.5 The appeal proposals have been prepared acknowledging observations made at the previous appeal for 45 dwellings which found unacceptable landscape and visual harm. The current appeal proposals address this harm through a number of key changes. These include a reduction in the number of proposed dwellings and revised layout and details which together address views from Kidnappers Lane and land north of the appeal site. In addition, a reduced density of development allows greater opportunities for further tree and hedge planting to reflect the semi-rural character of the location.
- 9.6 The landscape character of the area is acknowledged to comprise a mosaic of land uses containing both urban and rural elements located at the edge of Cheltenham. The balance of urban elements in the landscape has changed since the previous appeal with the development of the Brizen Park residential area off Farm Lane. Further changes are likely which will further change the balance with the emerging allocation of land for up to 350 dwellings north of Kidnappers Lane and the new school site south of the lane.

- 9.7 Seeing settlement features within this settled landscape does not imply harm where these features conserve the semi-rural character of the area. The Parish Council identify Leckhampton Farm Court as an example of development suitable for the semi-rural location. The construction of Brizen Park on Farm Lane and the emerging allocation for housing north of Kidnappers Lane illustrate that the landscape has capacity to accommodate settlement and maintain its semi-rural landscape character.
- 9.8 The proposed development of the new secondary school south of Kidnappers Lane further illustrates the capacity of the landscape to accommodate change. The application proposals for the school include a new footpath/cycleway along Kidnappers Lane which connects to local footpaths, Lotts Meadow and the established residential areas. The new footpath/cycleway is also proposed to connect to the future residential development land to the north of Kidnappers Lane through the use of existing footpath CHL/06.
- 9.9 The appeal site is located close to the school site and has direct access to Kidnappers Lane giving strong future connectivity to the school, future residential development north of the lane and to the existing wider settlement. As such the appeal site is not isolated or incongruous but closely linked to both the existing settlement and the developing community.
- 9.10 The landscape and visual impact assessment has tested the appeal proposals and found only limited harm. Landscape effects are limited by the existing poor condition of the site, the low density of the appeal proposals and the opportunity for new landscaping to strengthen the green infrastructure, conserving the semi-rural landscape character.
- 9.11 Visual effects are limited by the general containment of the site with established vegetation, a proposed low density layout which maintains open space adjoining Kidnappers Lane to establish new robust green infrastructure and broad opportunity to establish new native hedge and tree planting along the northern and western margins of the site and internally within the site.
- 9.12 Leckhampton Hill will remain prominent in views from footpath CHL/06 where new development would be seen set within a well vegetated setting that maintains the semi-rural character. From Lotts Meadow views of new built form are almost obscured even in

the winter landscape. Where new built form would be seen, it would have no greater visual prominence or influence on local character than new residential development at Leckhampton Farm Court, promoted as an example of supportable residential development by the Parish Council.

- 9.13 Overall harm arising from the appeal proposals is predicted to be limited and as such would not in my opinion, have an unacceptable impact on the character and appearance of the area. The appeal proposals would therefore not be in conflict with CLP Policies C01(a) and CP7 and JCS Policies SD4 and SD6. It is accepted that the proposals would conflict with Policy C01 (b) but when the balance of harm / benefit is made, the level of residual harm would not exceed the threshold of unacceptable harm with consideration to paragraph 170 and the more general approach taken by the NPPF.