

STATEMENT OF COMMON GROUND

BETWEEN:

**ROBERT HITCHINS LTD
&
CHELTENHAM BOROUGH COUNCIL**

LAND OFF KIDNAPPERS LANE, CHELTENHAM

PROPOSAL:

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.

**LPA REF: 19/00334/OUT
PPG REF: P19-2231**

DATE: 10TH JANUARY 2020

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1. INTRODUCTION

- 1.1 This Statement of Common Ground (SoCG) has been prepared by Pegasus Group, on behalf of Robert Hitchins Land Limited ("the Appellant").
- 1.2 It has been prepared in conjunction with Cheltenham Borough Council ("the LPA"). It relates to a Planning Appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in connection with Land off Kidnappers Lane, Cheltenham, Gloucestershire (the appeal site).
- 1.3 The purpose of this SoCG is to identify the areas where the principal parties (the Appellant and the LPA) are in agreement and to narrow down the issues that remain in dispute. This will allow the Public Inquiry to focus on the most pertinent issues.

2. SITE LOCATION AND DESCRIPTION

- 2.1 The appeal site is located beyond the south eastern edge of Cheltenham. The town is identified along with the city of Gloucester in the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) as a key urban area.
- 2.2 As one of the highest order settlements in the JCS area, Cheltenham possesses a wide range of services, facilities and employment opportunities which when combined with the existing access to public transport and links to surrounding settlements, including Gloucester and Cheltenham, has the ability to support sustainable patterns of living in Gloucestershire.
- 2.3 The appeal site is located in the Leckhampton area of Cheltenham, approximately 2 km to the south west of the Leckhampton district centre. The appeal site itself comprises approximately 1.3 hectares of former market garden and plant nursery land to the north and east of Kidnappers Lane.
- 2.4 The site is an irregular shaped area of flat land formerly used as a commercial plant nursery (with some remnants of the nursery still evident on-site i.e. the hardstanding). It is bounded by established native hedgerows on its western and southern boundaries with an open field boundary to the north abutting agricultural land beyond.
- 2.5 To the eastern boundary is an adjacent plant nursery complex and this contains a number of horticultural structures of varying designs and construction. Access to the site is gained directly from Kidnappers Lane to the south which in turn provides access to the principle county highway of the A46 Shurdington Road to the north and the associated services and facilities of the local areas of Up Hatherley and Warden Hill.
- 2.6 There are no statutory designations within the appeal site with the site lying outside of both the Cotswolds Area of Outstanding Natural Beauty (AONB) and the Green Belt. It is also wholly located within Flood Zone 1, the zone with the lowest probability of flood risk.
- 2.7 The appeal site is not within or adjacent to a Conservation Area and does not contain any heritage assets. The nearest listed building is the Grade II listed Olde England property approximately 120m to the south, on the far side of Kidnappers Lane.

3. THE APPEAL PROPOSAL

3.1 The planning application that is now the subject of this appeal was submitted to Cheltenham Borough Council on 19th February 2019 (LPA ref: 19/00334/OUT).

3.2 The description of development, is as follows:-

“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.”

3.3 The application was submitted with all matters of detail reserved for subsequent determination.

Housing

3.4 The proposals would deliver up to 25 dwellings at a net density of circa 19.2 dwellings per hectare. The proposal could include a mix of house types, sizes and tenures which can be determined at the Reserved Matters stage.

3.5 The new dwellings would be predominately 2 storeys in height with single storey garaging in accordance with the submitted Design and Access Statement.

Affordable Housing

3.6 The Appellant intends to deliver a “policy compliant” level of affordable housing (40%).

Layout

3.7 Although the application was submitted in outline, an Illustrative Masterplan was submitted to demonstrate how the appeal site could deliver the scale of development proposed. It demonstrates how the development could be laid out to respond to the constraints and opportunities of the site.

Access

3.8 Whilst access is reserved for subsequent determination, the Illustrative Masterplan shows that the sole pedestrian and vehicular access will be gained directly from Kidnappers Lane to the south. The Appellant has also submitted details of the junction arrangement and this can be secured by condition at the outline stage if considered appropriate.

- 3.9 There are no public rights of way which cross the site. However, a public right of way (Leckhampton Footpath 6) extends off Kidnappers Lane and passes to the north of the appeal site and Leckhampton Footpaths 11 and 12 pass to the east and south-east of the appeal site through Lotts Meadow. Further, Leckhampton Footpath 8 to the south-west of the appeal site extends northwards to intersect with Kidnappers Lane.

4. APPLICATION PLANS AND DOCUMENTS

4.1 The application plans and supporting documents that comprised the planning application at the time that the appeal was lodged, were as follows:-

Application Drawings

<u>Drawing Title</u>	<u>Drawing Reference</u>	<u>Revision</u>
1. Site Location Plan	300.P.2	A
2. Illustrative Masterplan	300.P.3	K
3. Site Access	LE.KL.SA.01	A

Application Forms and Supporting Documents

4. Application forms, together with the relevant certificate of ownership and agricultural land declaration and copy of notices served, all duly completed, signed and dated;
5. Planning Statement (including Draft Heads of Terms and Affordable Housing Statement)(Pegasus Group, Ref: P18-2052, dated January 2019);
6. Design and Access Statement (Pegasus Urban Design Ref: P18-2052_04, dated January 2019);
7. Report of Community Engagement (Pegasus Group, Ref: P18-2052, dated November 2018);
8. Historic Environment Desk Based Assessment (CgMs, Ref: JAC24932, dated November 2018);
9. Landscape and Visual Impact Appraisal (MHP, dated January 2019);
10. Tree Survey Report and Arboricultural Advice (MHP, dated 17th September 2018);
11. Ecological Assessment (Ecology Solutions, Ref: 6898.EcoAss.vf4, dated February 2019);
12. Transport Statement (PFA Consulting, Ref: H561A, dated 13th December 2018);
13. Cheltenham Sustainability Checklist (September 2018);
14. Flood Risk Assessment and Drainage Strategy (Phoenix Design Partnership, dated January 2019);
15. Utility Statement (RHL, Ref: LKL.2019.US.01, dated January 2019)
16. Waste Minimisation Statement (Pegasus Group, Ref: P18-2052, dated January 2019)

17. Topographic Survey (Nigel Ruxton Land Surveys, Ref: 1538/01A, dated May 2015).
18. Additional information for 'Appropriate Assessment' prepared by Ecology Solutions dated June 2019.

5. PUTATIVE REASONS FOR REFUSAL

- 5.1 Given that the application was submitted on the grounds of non-determination, the Local Authority did not issue a decision notice. A draft Delegated Powers Officer's report was produced a copy of which has been supplied to the Planning Inspector.
- 5.2 Following the submission of the appeal, officers exercised their delegated powers to raise two Putative Reasons for Refusal which are as follows:
- 1. The appeal site is not located within the Principal Urban Area (PUA), 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 conflicts 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.**
 - 2. Policies 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.**
- 5.3 It is agreed that the second putative reason for refusal can be addressed through planning obligations and therefore neither party intend to present evidence on this matter.
- 5.4 The Council has formally advised the appellant, the Parish Council and the Planning Inspector of the Council's formal Putative Reasons for Refusal.

6. PLANNING HISTORY

6.1 It is agreed that the planning history that is of most relevance to the appeal site and the locality includes the following:-

Reference	Description	Decision
06/01119/FULL	Relocation of existing Polytunnels	Approved 12th October 2006
07/01651/COU	Provide a small cafeteria serving snacks and coffee and a small shop selling gifts and garden accessories.	Approved 28th February 2008
13/10605/OUT*	Residential development of up to 650 dwellings, mixed use local centre, retail unit, GP surgery, primary school, open space.	Refused 31 July 2014 Appeal dismissed 5 th May 2016 (PINS Ref: APP/B1605/W/14/3001717)
16/00202/OUT	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	Refused 20 th April 2017 Appeal dismissed 4 th April 2018 (PINS Ref: APP/B1605/W/17/3178952)

**It is agreed that the appeal site formed part of the planning application ref. 13/10605/OUT but was omitted from the appeal scheme that was later dismissed.*

6.2 Both parties will also make reference to recently submitted application for a Secondary School on nearby land (GCC ref.19/0058/CHR3MJ). Reference will also be made to the proposed allocations in the emerging Local Plan that relate to the neighbouring land.

7. PLANNING POLICY

7.1 This section identifies the planning policies and guidance that will be of most relevance to this appeal. All documents that are referred to will be included in a list of Core Documents.

National Guidance

National Planning Policy Framework

7.2 The revised NPPF (2019) will be a material consideration in the determination of the appeal. Both parties will make reference to the NPPF in support of their respective cases.

National Planning Practice Guidance

7.3 The NPPG will be a material consideration in the determination of this appeal. Both parties will make reference to relevant sections of the NPPG.

The Development Plan

7.4 Both parties agree and accept that under the provisions of Section 38 (6) of the Planning and Compulsory Purchase Act of 2004, applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

7.5 At the time of preparing this SoCG, the Statutory Development Plan covering the appeal site comprised: -

- Gloucester, Cheltenham and Tewkesbury Joint Core Strategy; and
- Cheltenham Borough Local Plan Second Review "saved policies"

Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS)

7.6 Cheltenham Borough Council worked in conjunction with Gloucester City Council and Tewkesbury Borough Council to prepare a Joint Core Strategy (JCS) for their combined areas. The JCS was adopted in 2017 and covers the period up to 2031.

7.7 It represents the most up-to-date part of the Development Plan for the purposes of this appeal and following its adoption, the JCS replaced the majority of the Strategic Policies of the Adopted Cheltenham Borough Local Plan (a full schedule of superseded policies is provided at Appendix 1 to the JCS).

7.8 It is agreed that the following JCS policies will be of most importance to the determination of this appeal:-

- Policy SP1: The Need for new development
- Policy SP2: Distribution of new development
- Policy SD6: Landscape
- Policy SD10: Residential Development
- Policy SD12: Affordable Housing

7.9 **Policy SP1** identifies the need for new development and reads as follows:-

"Policy SP1 – The Need for New Development

1. During the plan period, provision will be made to meet the need for approximately 35,175 new homes and a minimum of 192 hectares of B-class employment land to support approximately 39,500 new jobs

2. This is to be delivered by development within existing urban areas through District plans, existing commitments, urban extensions to Cheltenham and Gloucester, and the provision of Strategic Allocations at Ashchurch. This strategy aims to locate jobs near to the economically active population, increasing sustainability, and reducing out-commuting thereby reducing carbon emissions from unsustainable car use

3. The housing requirement for each local authority will be as follows:

- i. Gloucester at least 14,359 new homes;**
- ii. Cheltenham at least 10,917 new homes;**
- iii. Tewkesbury at least 9,899 new homes.**

7.10 **Policy SP2** deals with the distribution of new development and reads as follows:-

"Policy SP2; Distribution of New Development

1. To support their economic roles as the principal providers of jobs, services and housing, and in the interests of promoting sustainable transport, development will be focused at Gloucester and Cheltenham, including urban extensions to these areas

2. To meet the needs of Gloucester City the JCS will make provision for at least 14,359 new homes. At least 13,287 dwellings will be provided within the Gloucester City administrative boundary, including the Winneycroft Strategic Allocation, and urban extensions at Innsnorth and Twigworth, South Churchdown and North

Brockworth within Tewkesbury Borough defined in Policy SA1, and sites covered by any Memoranda of Agreement

3. To meet the needs of Cheltenham Borough the JCS will make provision for at least 10,996 new homes. This will be provided within the Cheltenham Borough administrative boundary and cross boundary urban extensions at North West Cheltenham and West Cheltenham (both of which are partly within Tewkesbury Borough) defined in Policy SA1, and commitments covered by any Memoranda of Agreement

4. To meet the needs of Tewkesbury Borough, none of which is being met by the urban extensions to Gloucester and Cheltenham, the JCS will make provision for at least 9,899 new homes. At least 7,445 dwellings will be provided through existing commitments, development at Tewkesbury town in line with its role as a market town, smaller-scale development meeting local needs at Rural Service Centres and Service Villages, and sites covered by any Memoranda of Agreement

5. Rural service centres and service villages as identified in Table SP2c below will accommodate lower levels of development to be allocated through the Tewkesbury Borough Plan and Neighbourhood Plans, proportional to their size and function, and also reflecting their proximity and accessibility to Cheltenham and Gloucester and taking into account the environmental, economic and social impacts including existing levels of growth over the plan period

Over the plan period to 2031:

- i. The rural service centres will accommodate in the order of 1860 new homes, and;**
- ii. The service villages will accommodate in the order of 880 new homes;**

6. In the remainder of the rural area, Policy SD10 will apply to proposals for residential development.

7. The unmet needs of Gloucester and Cheltenham, beyond their administrative boundaries, will only be delivered on Strategic Allocation sites allocated through Policy SA1 and any other sites with an agreed sharing mechanism through a Memorandum of Agreement between the relevant local planning authorities

8. The identification of any additional urban extensions to help meet the unmet needs of a Local Planning Authority must be undertaken through a review of the plan. Any additional site allocations made through a local plan or any neighbourhood plans must be in conformity with the JCS spatial strategy. Consideration will also be given to meeting needs in another local authority area where it is clearly established that they cannot be met

within the JCS area, or provide a more sustainable and appropriate option

9. To support economic growth in the JCS area, the JCS will make provision for at least 192 hectares of B-class employment land. At least 84 hectares of B-Class employment land will be delivered on Strategic Allocation sites as detailed at Policy SA1. Any further capacity will be identified in District plans.

(The amount of development and its distribution is set out in Tables SP2a and SP2b (at the end of this section of the plan), and indicated on the JCS Key Diagram)."

7.11 Landscape matters are dealt with under **Policy SD6** which reads as follows:-

"Policy SD6: Landscape

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

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

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

7.12 **Policy SD10** deals with proposals for residential development and reads as follows:-

Policy SD10: Residential Development

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

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

3. On sites that are not allocated, housing development and conversions to dwellings will be permitted on

previously-developed land in the existing built-up areas of Gloucester City, the Principal Urban Area of Cheltenham and Tewkesbury town, rural service centres and service villages except where otherwise restricted by policies within District plans

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

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

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

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

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

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

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

7.13 Affordable housing is dealt with under **Policy SD12** which reads as follows.

"Policy SD12: Affordable Housing

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

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

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

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

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

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

3. Where possible, affordable housing should be provided on-site and should be seamlessly integrated and distributed throughout the development scheme. On sites where it is not possible to deliver all affordable housing as on-site provision, the residual requirement should be provided through acceptable alternative mechanisms (such as off-site provision or financial contributions). Further guidance on acceptable mechanisms may be provided in District plans

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

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

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

Rural exception sites

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

Viability

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

i. Varying the housing mix and design of the scheme in order to reduce costs whilst having regard to the requirements of other policies in the plan, particularly

Policy SD4, and the objective of creating a balanced housing market;

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

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

The councils consider that information submitted as a part of, and in support of a viability assessment should be treated transparently and be available for wider scrutiny. In submitting information, applicants should do so in the knowledge that this will be made publicly available alongside other application documents

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

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

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

7.14 **Policy REV1** sets the requirement for an immediate partial review of the JCS and reads as follows:-

"Policy REV1; Gloucester and Tewkesbury Housing Supply Review

A partial review of the housing supply for Gloucester and Tewkesbury will commence immediately upon adoption of the JCS. On adoption, the authorities will publish a Local Development Scheme to set out the timescales for completion. The review will cover the allocation of sites to help meet any shortfall in housing supply against the JCS housing requirements for the respective authorities."

- 7.15 It is agreed that the JCS Authorities have already started work on the JCS Review and that this is expected to take the form of a comprehensive review rather than a partial review.
- 7.16 It is agreed that no weight can be placed on the contents of the JCS review at this time.

Cheltenham Borough Local Plan

- 7.17 The Local Plan was adopted in June 2006.
- 7.18 From the Local Plan Proposals Map it can be seen that the site lies beyond the built-up area of the Principal Urban Area. The site is not allocated for development and is not subject to any designations.
- 7.19 Most of the strategic policies have now been superseded by the JCS. It is agreed that the following policies will be of most importance to the determination of this appeal:-
- CP 3 Sustainable environment
 - CP 4 Safe and sustainable living
 - RC 2 Youth and adult outdoor playing facilities
 - RC 5 Development of amenity space
 - RC 6 Play space in residential development
 - RC 7 Amenity space in housing developments

The Emerging Local Plan

The Cheltenham Plan (CP)

- 7.20 The LPA is in the process of preparing a replacement Local Plan which originally intended to amongst other things, provide housing allocations to meet the housing requirements of the JCS.
- 7.21 It is agreed that the Inspector has not issued her final report on the Cheltenham Plan and has not yet reached any final conclusions as confirmed in her Post Hearing Advice Note.
- 7.22 The CP was the subject of a consultation that ended on 16 December 2019. The consultation only covers the Proposed Modifications and changes to the policy maps and not other aspects of the plan or 'omission' sites.
- 7.23 It is agreed that the Cheltenham Plan as proposed to be modified does not provide sufficient land to meet the residual JCS housing requirement in full.
- 7.24 It is agreed that the LPA's housing land supply position has deteriorated since the CP Main Modifications were published such that even on the LPA's figures the supply position would be 3.7 years.
- 7.25 It is agreed that the plan period shortfall has also increased since the CP Main Modifications were published such that even on the LPA's figures the shortfall would be 1,190 homes at the end of the plan period.
- 7.26 It is agreed that the CP Inspector is not yet aware of the increased housing shortfalls (both the 5YRHLS shortfall and the plan period shortfall) and the parties do not know how she might respond to this change in circumstances.
- 7.27 The parties disagree on whether the CP is at an advanced stage towards its adoption. The appeal parties also disagree on the weight that can be attributed to policies of the CP at this time..
- 7.28 It is agreed that there are objections to the CP which have yet to be resolved.

Neighbourhood Planning

- 7.29 The appeal site is located within the Leckhampton with Warden Hill Area which as designated in September 2015 for Neighbourhood Plan (NP) purposes. However, it is agreed that the NP is still at a very early stage.
- 7.30 Accordingly, the NP should be afforded limited in the decision making process.

8. MATTERS NOT IN DISPUTE

- 8.1 This section sets out the matters not in dispute between the Appellant and the Local Planning Authority.

Format of Planning Application and Supporting Material

- 8.2 It is agreed that the format of the outline planning application forms, plans and the supporting documents fulfilled the requirements of the various regulations and validation checklists, applicable at the time of submission.
- 8.3 It is agreed that the LPA agreed to register the application as an outline application with all matters of detail reserved for subsequent determination.
- 8.4 It is agreed that the LPA did not exercise its powers to request any of the Reserved Matters to be unreserved.

Environmental Impact Assessment

- 8.5 It is agreed that the proposals do not constitute EIA development and that an Environmental Statement is not required.

Whether the appeal proposals should be allowed and whether they would represent sustainable development

- 8.6 Both parties agree that this appeal should be allowed.
- 8.7 It is agreed that the appeal proposals would represent sustainable development in accordance with paragraph 11 (d) of the NPPF.
- 8.8 It is agreed that there are no planning reasons why this appeal should be dismissed.

Five Year Housing Land Supply (5YRHLS)

- 8.9 It is agreed that the LPA cannot currently demonstrate a 5YRHLS. It is agreed that the absence of a 5YRHLS engages the 'tilted' planning balance under paragraph 11d of the NPPF and Footnote 7.
- 8.10 It is agreed that there are no NPPF footnote 6 policies that indicate that the tilted balance should be disapplied in this case.
- 8.11 The parties disagree on the extent of the five-year land supply shortfall. The Council considers that it is able to demonstrate a **3.7 year** land supply and the

Appellant considers that the Council is only able to demonstrate at most a **2.1 year** land supply.

8.12 It is agreed that the difference in the respective five-year land supply positions of the parties arises as a result of three issues as follows:

- the Council include 355 homes on sites which the Appellant considers are not identified as being eligible for inclusion in the definition of a deliverable site within the NPPF and the PPG (68-007), and are not eligible for inclusion in accordance with the findings of numerous s78 Inspectors;
- the Council include 133 homes on sites which benefit from outline planning permission for which the Appellant claims that they have not yet seen any clear evidence that completions will begin on site within five-years and so the Appellant does not consider these to be deliverable;
- the Council include 495 homes on strategic allocations for which no specific, suitable and viable transport solution has yet been identified and so the Appellant does not consider these sites to offer a demonstrably suitable location for development now or to be achievable within five-years. Neither site has planning permission and an application has yet to be submitted on one of the sites.

8.13 Solely for the purpose of deciding this appeal, and without prejudice to the Council's right to argue or a different conclusion at other appeals, it is agreed that the current five year housing land supply shortfall is substantial on either assessment.

8.14 It is agreed that the Council will be unable to demonstrate a five-year land supply unless additional sites are identified and there is currently no plan in place to address the shortfalls.

8.15 It is agreed that the Council is unable to identify a sufficient supply to meet the JCS minimum housing requirement for 10,917 homes over the plan period up to 2031, unless additional sites are identified.

8.16 The parties disagree on the extent of the plan period shortfall. The Council considers that there will be a a shortfall of 1,190 homes at the end of the plan period and the Appellant considers that there will be a shortfall of 2,270 homes.

- 8.17 Either way, it is agreed that the plan period shortfall is substantial.
- 8.18 It is agreed that there has been an insufficient number of affordable homes delivered to meet the need for affordable housing over the period 2015-19 as identified in the SHMA. It is agreed that cumulatively there has been a shortfall of 732 affordable homes.

The Principle of Development

- 8.19 It is agreed that the appeal site can be considered sustainable in terms of accessibility to local facilities and public transport services.
- 8.20 It is agreed that the LPA proposes to allocate land for 350 houses and a Secondary School in the vicinity of the appeal site, as part of the emerging Cheltenham Plan.
- 8.21 It is agreed that in order to address the housing shortfalls across the plan period additional land in addition to that proposed for allocation in the Cheltenham Plan will be required.

The Planning Balance

- 8.22 It is agreed that the presumption in favour of sustainable development is engaged. It is engaged because of the housing land supply position.
- 8.23 When the tilted balance is applied, it is agreed that any adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.24 It is also agreed that no NPPF Footnote 6 policies indicate that planning permission should be refused.
- 8.25 The appellant in Mr. Hutchinson's Proof of Evidence identifies the range of important benefits that the appeal proposals would deliver and he identifies the weight that he believes should be afforded to these. The Council is not proposing to challenge this for the purposes of this appeal on the basis that in any case the Council agrees that planning permission should be granted in respect of this appeal.

Prematurity

- 8.26 It is agreed that the appeal proposals would not be premature or prejudicial in planning terms.

Development Plan Designations

- 8.27 It is agreed that the site is located beyond the built-up area of the Principal Urban Area of Cheltenham as defined in the adopted and emerging Local Plan Proposals/Policies Map and it will therefore be considered as "countryside" in planning policy terms.
- 8.28 It is agreed that the appeal site lies beyond the Principal Urban Area and it is not allocated for any development purpose in the development plan or the emerging development plan. Therefore, the appeal parties agree that the appeal proposal does not accord with JCS Policy SD10.
- 8.29 It is agreed that the site is not located within the Green Belt.
- 8.30 It is agreed that there are no statutory or other adopted landscape, ecology or heritage designations that are directly related to the Appeal Site although the site does lie in proximity to the Cotswolds Area of Outstanding Natural Beauty and a Local Green Space allocated in the emerging Cheltenham Plan.

Settlement Boundaries

- 8.31 It is agreed that the emerging Cheltenham Plan anticipates the allocation of land for housing and associated development beyond the Principal Urban Area including land north of the appeal site.
- 8.32 It is agreed that the housing shortfall across the plan period cannot all be accommodated on sites within the PUA and further releases beyond the PUA will be required.

Access and Highways

- 8.33 It is agreed that the Local Highways Authority raised no objection to the application subject to the imposition of reasonable planning conditions and Section 106 obligations.
- 8.34 It is agreed that the proposals would not have a severe residual adverse impact on the local highway network for the purposes of NPPF paragraph 109.

- 8.35 It is agreed that the proposals can provide for a safe and suitable means of access.
- 8.36 It is agreed that the opportunities for sustainable transport modes have been taken up.
- 8.37 It is agreed that the Appellant will provide for a new footway between the proposed site access and Vineries Close and that the Local Highways Authority is content that this is sufficient to make walking a viable modal choice. It is agreed that this new footpath can be secured by reasonable condition.

Facilities and Accessibility

- 8.38 It is agreed that the site is located within walking distance of the built-up area of Cheltenham and that it is in an accessible location where residents would have access to existing local shops, schools, employment opportunities and other facilities.
- 8.39 It is agreed that residents would have access to good quality public transport services.
- 8.40 It is agreed that residents would also have reasonable access to public open space on-site.

Master Planning

- 8.41 It is agreed that the planning application was submitted in outline with access, layout, appearance, scale and landscaping of the development reserved for future consideration.
- 8.42 It is agreed that the detailed design and layout of the scheme are capable of being addressed at the Reserved Matters stage although the submitted masterplan and Design and Access Statement are material considerations.

Impact on Residential Amenity

- 8.43 It is agreed that the issues relating to overlooking and loss of privacy for future residents of the development or existing residents occupying neighbouring properties, can be addressed at the Reserved Matters stage.

Housing Mix

- 8.44 It is agreed that the proposals could provide for an appropriate mix of house types, sizes and tenures. This can be secured at the Reserved Matters stage.

Affordable Housing

- 8.45 It is agreed that the appeal proposals is capable of providing a policy compliant level of affordable housing through a completed s.106 agreement (40%) in accordance with JCS Policy SD12.

Public Open Space

- 8.46 It is agreed that an area of public open space has been indicated on site to meet the needs of the proposed development. The suitability of this space, including final scale and arrangement would be controllable through Reserved Matter applications.
- 8.47 It is agreed that further details relating to the laying out and any planting within the open space areas as well as long term management arrangements, can be agreed by condition or through planning obligations.

Trees

- 8.48 It is agreed that there would be no unacceptable impacts upon on trees which cannot be overcome at Reserved Matters stage.

Ecology

- 8.49 It is agreed that subject to securing the recommended mitigation through conditions, the proposals will not have an unacceptable impact on protected species and or habitats within the site.
- 8.50 It is agreed that proposals also present opportunities for biodiversity diversification that may in turn lead to an ecological enhancement compared to the rural habitats that exist at present. Any enhancement will depend upon the scale and extent of appropriate habitat creation.

Contamination

- 8.51 It is agreed that there is no objection on contamination grounds, subject to conditions.

Built Heritage

- 8.52 It is agreed that there are no designated heritage assets within the Appeal Site.
- 8.53 It is agreed that the Appeal Site is not located within or adjacent to a Conservation Area.
- 8.54 It is agreed that there are no listed buildings within the vicinity of the Appeal Site that the Council asserts would be adversely affected by the proposals.

Archaeology

- 8.55 It is agreed that there is no objection on archaeological grounds subject to the imposition of a standard condition to secure a programme of archaeological work.

Agricultural Land Classification

- 8.56 It is agreed that the LPA raises no objection on grounds related to best and most versatile agricultural land (BMV).

Infrastructure

- 8.57 It is agreed that any off-site infrastructure requirements for this scheme are capable of being addressed through CIL.

Noise and Air Quality

- 8.58 It is agreed that the LPA raises no objection on grounds related to noise or air quality.

Flood Risk and Drainage

- 8.59 It is agreed that the appeal site is located within Flood Zone 1 (an area with the least probability of flooding).
- 8.60 It is agreed that the Lead Local Flood Authority and Borough Land Drainage Officer raised no objections on flooding or drainage matters subject to conditions.

Public Benefits

- 8.61 It is agreed that the proposed development would potentially secure benefits in economic and social and environmental terms. These would include inter alia:-
1. The provision of open market housing

2. The provision of affordable housing for which there is an identified need.
 3. Expenditure on construction and investment in the local area.
 4. the generation of expenditure in local shops and services.
 5. The construction phase would secure construction jobs in the short term and the related economic benefits for the area.
 6. Off site footpath/street lighting
 7. New native planting and biodiversity enhancements
- 8.62 The Appellant considers that there are also other benefits associated with the proposals and these are set out in Mr. Hutchison's Proof of Evidence.

9. MATTERS THAT REMAIN IN DISPUTE

- 9.1 There are no matters that remain in dispute.
- 9.2 Whilst there remains some disagreement on the extent of the housing shortfalls and the extent of harm to the character and appearance of the area, both parties agree that these areas of disagreement are not determinative, and they agree that planning permission should be granted in any event.

10. PLANNING CONDITIONS AND OBLIGATIONS

- 10.1 An agreed set of conditions will be provided to the Inspector before the start of the Public Inquiry.
- 10.2 The Appellant will also present deeds pursuant to Section 106 of the Town and Country Planning Act which will secure any planning obligations that are deemed necessary to make the development acceptable.