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FAO Mr C. Hemphill
Cheltenham Borough Council
Municipal Offices
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RE: Planning Application Ref P13_01605

Outline Planning Application for up to 650 dwellings, mixed use local centre of up to 1.94ha comprising of a convenience store class A1 (400m²), pharmacy and GP surgery and 4,500m² of unspecified (non-residential) use, a primary school of up to 1.72ha land area, principal access and open space.

Submission of Lufton & Associates Chartered Planning Consultancy for LEGLAG

Lufton & Associates have been commissioned by Leckhampton Green Land Action Group (LEGLAG) to give a professional opinion of the planning and sustainability merits of the above proposal, report to them and provide a response to the District Council.

In particular this assessment and representation focusses on the planning suitability of this proposal and whether it is compatible with the policies of the 'Development Plan' including the emerging Joint Core Strategy and other relevant local and national policies, strategies and regulations.

The application although containing mixed-uses is predominantly a major housing proposal and examination of the Masterplan and supporting documents reveals that other uses are consistent with an overall residential proposal.

The 4,500m² of additional floorspace described as being available for a number of uses from health centre to 'other A-class uses' is particularly vague and uncommonly elusive even for an outline proposal. It is difficult to see how a planning authority could make any rational assessment of this unspecified element of the scheme and the applicant must be confused in thinking that they have submitted an application in a free planning zone.

Housing Land Supply – 5 year land supply

Since the demise of much of national planning policy guidance and consolidation into the National Planning Policy Framework (NPPF) it is widely acknowledged that the demonstration of a 5-year land supply for housing has become an ever more critical consideration in the determination of housing proposals. It is the subject of countless hours of debate at Public Inquiries and critical to a large proportion of appeal decisions made by Planning Inspectors.

Paragraph 47 of the NPPF requires that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years supply of housing when set against their housing requirements with an additional buffer of 5% and, where there has been a record of persistent under delivery of housing, with an additional buffer of 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

The annualised figure against which the 5-year housing land supply is assessed is a matter of contention. The applicant is very keen to draw the Council's attention to the recent appeal at Hunting Butts in Cheltenham a decision made over 15 months ago on an application seemingly made in 2011 (RPS Planning Statement pages 42-45). While the appeal decision is of interest it is just a single appeal decision selected by the applicant to justify their case and has no legal precedent or implication for the current proposal.

Cheltenham Borough Councils 5-year Housing Land Supply statement (undated) is based on an assessment period 1st April 2012 to 31st March 2017 and uses a baseline housing requirement brought forward from the Secretary of States Proposed Changes to the South-West RSS. This gives an overall requirement over the plan period, 2006-2026, of 8,100 dwellings for the district and an annual requirement of 405 dwellings.

Accounting for net completions of dwellings 2006-2012 the annual housing requirement is increased to 421 dwellings (in the Borough Councils 5-year statement).

The applicant advocates an annual housing requirement in the Borough of 449 dwellings (RPS Planning Statement page 42) to account for 'under-provision' against the housing requirement.

Accounting for under-provision (backlog) housing requirements is a contentious issue and many arguments specific to local conditions can be considered as to whether making up a backlog is appropriate or not. In the case of the situation in Cheltenham the 'backlog' is not greatly significant anyway.

Setting supply against the housing requirement the Councils statement confirms a 4.7 years supply, reduced to a 4.5 years supply using a 5% buffer allowance and 3.9 years using a 20% buffer allowance. The buffer is simply to allow an adjustment for sites that have been included in supply that might not come forward and as national policy (NPPF) requires should be based on evidence of past performance.

By using an alternative method (Sedgefield method) for calculating how the perceived housing backlog should be brought forward and on the supply side making no allowance for windfall developments the applicants housing supply reconciliation

produces 4.2 years supply, reduced to a 4.0 years supply using a 5% buffer allowance and 3.6 years using a 20% buffer allowance (RPS Planning Statement page 42).

It seems entirely reasonable and appropriate to take the Councils 4.5 year land supply as the most reasonable quantification. The Borough doesn't appear to have a particular difficulty or unwillingness to bring sites forward so there seems little justification for adding a 20% buffer requirement. The windfall allowance seems entirely reasonable based on the methodology set out and the documented work on the capacity of urban areas.

Of course a half year land supply shortfall amounts to just over 200 dwellings and the application is for 650 dwellings. If the Borough Council were to approve this application and consider it deliverable the Borough would have considerably more than a five year supply (six years). To rationally consider the land supply position against the Joint Core Strategy process it immediately appears unnecessary to bring forward this proposal while good progress is being made on bringing forward a Joint Core Strategy.

There appears no immediate pressure on the Borough Council to positively determine this application just to address short-term housing supply requirements.

Prematurity

It appears critical to the decision that this planning application due to be considered imminently by the Borough Council has been made at a time when the planning strategy for Cheltenham is emerging with a Joint Core Strategy on consultation until 26th November 2013. Very clearly at this stage the plan process is not finished in the Borough and there are a number of important stages ahead.

The first core planning principle of the NPPF at paragraph 17 states;

'planning should... be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;'

It is clear that a positive determination of this application at present would be outside the spirit of a Development Plan led system and including proper, meaningful and fair consultation with the communities not only in Cheltenham but also those in Gloucester and Tewkesbury. These issues lie at the heart of the National Planning Policy Framework and the current government's Localism agenda.

This is emphasised by examining the Draft Joint Core Strategy (page viii) where nine strategic allocations are identified including 'South Cheltenham - Leckhampton'. This strategy is at a formative stage with nothing yet tested through public examination. Not the overall scale of the housing requirement, the distribution between plan areas or the allocations themselves.

Despite the references to Regional Spatial Strategies the *Planning System: General Planning Principles* statement produced by the then ODPM (2005) remains extant. Of direct relevance to the circumstances of this current application at Kidnappers Lane Leckhampton it states at paragraph 17;

"17. In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come into this category. Where there is a phasing policy, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect."

At paragraph 18 the *Planning System: General Planning Principles* statement continues with guidance on where refusal on the grounds of prematurity would not be justified, stating;

"Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question"

With the three planning authorities making progress towards the adoption of the Joint Core Strategy this would not be a circumstance where a refusal on the grounds of prematurity would cause undue delay to the planning strategy.

It is clear that the proposal at Leckhampton as it comprises a major strategic housing allocation for the district should be regarded as significant and highly determinate to the overall planning strategy. It is exactly these circumstances where bringing forward proposals ahead of the adoption of the Joint Core Strategy should be treated as premature.

It is important to view the plan process as culminating in a long-term blueprint to shape the future development of Cheltenham and the plan area and not as a quick fix for dealing with a planning application that it is 18 years in advance of the end date of the plan period of 2031. The Council simply does not need to give this proposal permission at this stage and prejudice the plan process.

Prematurity – Public Consultation

It is clear public consultation has been done on the proposal and this is document at length in the 'Statement of Community Involvement' by Curtin&Co in support of the application. Notwithstanding that the public consultations themselves evidently indicate the overwhelming objection to the scheme what anyway is lacking is the assimilation of consultation done at stages in the plan process into a final coherent strategy for the future development of Cheltenham by which development proposals

should be determined.

It is the case that there are substantive objections to the planning strategy for Cheltenham, the allocation of this site and the policies and principles that are set out in the Joint Core Strategy. ***These need to be resolved through the planning process and an open Public Examination of that strategy and not through ad-hoc considerations of a major planning proposal.***

Housing Strategy – Delivery of a Comprehensive Scheme

It is evident from looking at the planning framework at regional and local scale that the delivery of comprehensive schemes with adequate and timely supporting infrastructure has been critical to the local authorities approach to considering the suitability of allocations to meet housing requirements. The emerging Joint Core Strategy to 2031 identifies a number of urban extensions with proposals for comprehensive planning and development, provision of infrastructure and assimilation into the local transport network.

The draft policy A6 of the JCS in relation to South Cheltenham and Leckhampton states;

'Land is allocated at South Cheltenham as shown on Strategic Allocation Plan 6 for approximately 1,075 dwellings. Proposals will be required to demonstrate that the following requirements have been addressed:

- *Demonstrate how the strategic allocation can be developed as a comprehensive urban extension...*

In reference to land to the west of Farm Lane within the scope of the applicants indicative masterplan the Tewkesbury Local Plan to 2011 states (at page 22 under the reasoned justification for policy HOU1);

'If the SD2 [land west of Farm Lane] site is identified as part of a sustainable urban extension through the Green Belt review process then a process of joint working with Cheltenham Borough will be entered into in order to develop an appropriate comprehensive mixed development scheme for the area.'

The Tewkesbury Local Plan to 2011 further states in policy HOU1 that;

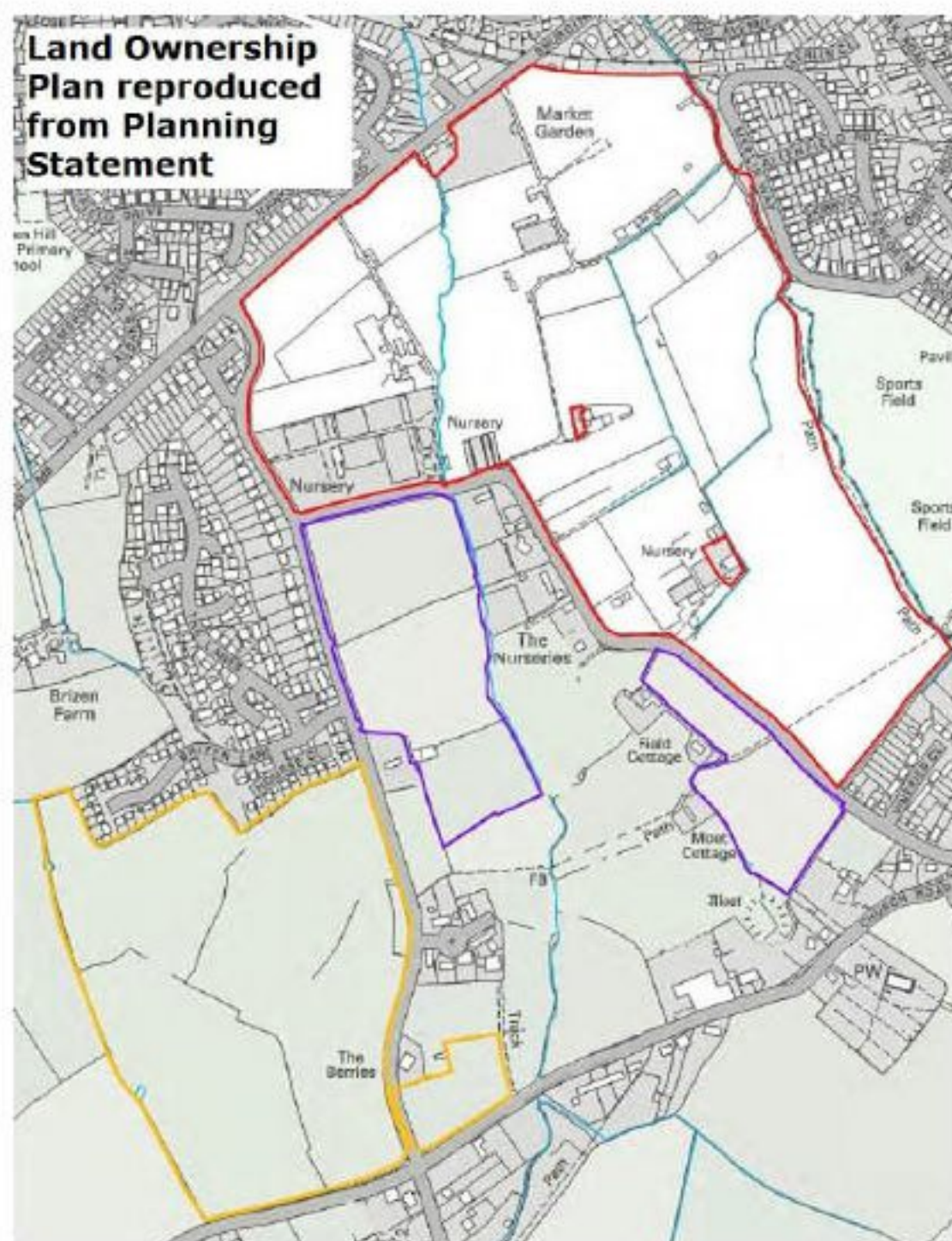
'PLANNING PERMISSION WILL NOT BE GRANTED FOR DEVELOPMENT OF THE SD2 SITE PRIOR TO ITS IDENTIFICATION AS AN APPROPRIATE LOCATION FOR STRATEGIC DEVELOPMENT THROUGH THE RSS PROCESS.'

There is no corresponding reference to comprehensive development of the application site in the extant Cheltenham Local Plan because of course the site is not identified for development.

There is some planning history in relation to concern over delivering a comprehensive urban extension that is indicative of a lack of integration between bringing forward the land subject of this application in Cheltenham and land within the administration of

Tewkesbury. The Secretary of State dismissed on appeal an application by David Wilson Homes and Martin Dawn PLC in 2008 on the land west of Farm Lane expressing severe reservations about shortcomings in the delivery of infrastructure that would prejudice a comprehensive development of an urban extension.

It is immediately apparent that the application proposal covers an area for residential development to the east wider than the indicative draft strategic allocation plan included in the JCS (at page.108, Plan 6) with residential development sited squarely in the area for landscape buffer/green infrastructure to the west of Merlin Way.



The applicants masterplan and other supporting plans also show a lack of integration with the Gloucestershire County Council land holdings east of Farm Lane and west of Kidnappers Lane and the MA Holdings land west of Farm Lane. These three major land areas do not adjoin each other on any boundary and look nothing like an area of comprehensive planning.

The indicative masterplan shows nothing on the intervening land to suggest a comprehensive approach to physical land assembly has been attempted.

Whether the proposals can be delivered as a comprehensive development is clearly a test of fact and degree. The consequences of poor planning and integration of a significant urban extension would be felt by the local community of Leckhampton and south

Cheltenham for many years. The applicant has gone to some length to demonstrate evidence that there has been collaborative working with the local authorities, Cheltenham and Tewkesbury, and the other landowners that contribute to the overall proposal, MA Holdings and Gloucestershire County Council, although a number of issues indicate to the contrary;

- There is no jointly presented masterplan.
- The indicative plans of the access and movement strategy and spatial distribution of residential densities appear unilateral (at pages 128 and 131 of the RPS planning statement).

- The statement made at paragraph 6.41 of the planning statement appears self-evidently contradictory;

'The application proposals are consistent with the required comprehensive approach to planning the area through the area wide masterplan and the inclusion of all the required services and facilities within the application site. Further applications can readily be progressed for land owned by the County Council and MA Holdings for residential development, recreation space and other associated uses including potential allotments in accordance with the Illustrative Masterplan'

Why would all services and facilities be required in this proposal scheme in the north of the location if it is to be deemed part of a comprehensive urban extension. In fact all the services and facilities are not being provided as is clear from indications given of the s.106 heads of terms and particularly the proportional contribution offered to the building of the primary school.

- The uncertainty of the primary school proposal and at what stage it would be funded and constructed (paragraphs 12.7-12.8 RPS Planning Statement).

- The vagueness of the approach to providing public open space including allotments and community (paragraph 3.23 RPS Planning Statement) and the opportunity for this to be incrementally revisited and changed.

- The unilateral representations of the applicant in the approach to community involvement and the seeming lack of involvement of the 'other' landowners (as evidenced in the Curtis & Co document).

Protection of Open Countryside, Landscape and High Quality Agricultural Land

The RPS Agricultural Resources Assessment (September 2013) acknowledges the application site is predominantly farmland in production for a mix of arable and livestock keeping. A significant proportion of the land area, 33%, is acknowledged as being of high quality and versatility being classified as grade 2 and grade 3a.

Current estimates are that Grades 1 and 2 together form only about 21% of all farmland in England with Subgrade 3a covering a further 21% (Natural England TIN409 December 2012).

The approach to protecting high quality farmland is reflected in the NPPF paragraph 112 that states;

"Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality".

It is difficult to agree with the applicant's statement at paragraph 6.17 of the RPS Agricultural Resources Assessment (September 2013) that the agricultural production

and grazing on the land would have no significant effect on food production just because the plot sizes on the application site are small.

This response has extensively explored and concluded that it would be premature to determine this application ahead of the review of the JCS.

It is very clear that the proposal is contrary to the provisions of the adopted Local Plan (Jul 2006) and the saved policy therein and in particular it is noted at paragraph 7.42 that the Council has retained the position that should development at Leckhampton be considered necessary in the future it should only emerge after full consultation through the development plan process;

'UNALLOCATED LAND AT LECKHAMPTON

7.40 Land at Leckhampton has been the subject of development pressure for a number of years. The Inspector considering objections into the Second Review of Cheltenham Borough Local Plan concluded that, "development of the objection site would materially harm the rural character and appearance of the area, and the important contribution that this makes to the landscape within the site and when seen from the AONB."

7.41 The Council supports the Inspector's conclusions and considers that the intrinsic value of the land should be protected as a resource for its recreational, landscape, wildlife and archaeological interest. Any proposals for development within this area will be considered against policies CO 1 (landscape character) and CP3 (sustainable environment).

7.42 In the consideration of growth, land at Leckhampton together with all potential development sites across the Borough will be reassessed within the context of the Regional Spatial Strategy for the South West to inform Cheltenham's emerging Local Development Framework. This will require cross boundary working with Tewkesbury Borough Council and relevant communities.'

Further the Inspector of the Tewkesbury Local Plan strongly emphasised the harm that development at SD2 (west of Farm Lane) would do to the views from the Cotswold escarpment. The SD2 land area in Tewkesbury is actually adjacent to the AONB and is the closest part of the site to the especially important views across the Vale from Leckhampton Hill and Shurdington Hill, and is therefore the most sensitive part of the area from a landscape perspective.

It is the opinion of Lufton & Associates that the current proposal should be refused on the basis of;

- inconsistency and prematurity with the 'Development Plan' (NPPF para 17);
- the lack of established need for housing development in Cheltenham at the present time and ahead of the SHMA being prepared for the Joint Core Strategy (NPPF para 47);
- the inconsistency of the application with the protection of the best and most

versatile agricultural land (NPPF para 112).

- the non-conformity of the proposal with the adopted Local Plan and the protection afforded to open countryside and landscape character.

Yours Faithfully,



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