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Extraordinary Planning Committee

13/01605/FUL Land at Leckhampton

31st July 2014

Present:

Members (13)

Councillors Barnes, Chair (GB); Fletcher, Vice-Chair (JF); Babbage (MB); Baker (PB); Chard (AC); Fisher (BF); Colin Hay (CHay); McCloskey (HM); McKinlay (AM); Seacome (DS); Stennett (MS); Thornton (PT).

Substitute: Councillor Coleman (CC)

Present as observers: Councillors Whyborn and Mason.

Officers

Tracey Crews, Head of Planning (TC)
Martin Chandler, Team Leader, Development Management (MC)
Craig Hemphill, Senior Planner (CH)
Philip Stephenson, Team Lead, Planning Policy (PS)
Wilf Tomaney, Townscape Manager (WT)
Paul Scott, Environmental and Public Health Officer (PScott)
Mark Power, Gloucestershire Highways (MP)
Sandra Donaldson, Gloucestershire County Council Education (SD)
Cheryl Lester, Legal Officer (CL)

Present as observers: Mike Redman, Director Environmental and Regulatory Services; Emma Pickernell, Planning Officer; Lucy White, Planning Officer; Chloe Smart, Planning Officer; Michael Glaze, Gloucestershire Highways.

1. Apologies: Councillors Clucas and Sudbury.

2. Declarations of interest

Councillor Fletcher: personal – has organised events for the Chamber of Commerce (which has objected to the proposal).

Councillor Baker: made a representation on the JCS some time ago, before becoming a councillor, but does not consider this a personal or prejudicial interest.

Councillor Coleman: asked for advice – there is a very large number of representations, all of which are published with names removed. Having lived in Cheltenham and specifically Leckhampton for many years, is bound to know some of the objectors – but how does he know if he does or not, and what should he do when considering whether or not he has a personal or prejudicial interest?

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CL, in response:

- as has been advised previously, where there is a close association with an objector, Members need to consider their position, but if unaware of any such association, he or she is not in a position to make this judgement.

CC: is not aware, therefore has no declaration of interest to make.

3. Public Questions

There were none.

4. Application

Application Number:	13/01605/OUT
Location:	Land at Leckhampton, Shurdington Road, Cheltenham
Proposal:	Residential development of up to 650 dwellings; mixed use local centre of up to 1.94ha comprising a local convenience retail unit Class A1 Use (400sqm), additional retail unit Class A1 Use for a potential pharmacy (100sqm), Class D1 Use GP surgery (1,200sqm,) and up to 4,500sqm of additional floorspace to comprise one or more of the following uses, namely Class A Uses, Class B1 offices, Class C2 care home, and Class D1 Uses including a potential dentist practice, children's nursery and/or cottage hospital; a primary school of up to 1.72ha; strategic open space including allotments; access roads, cycleways, footpaths, open space/landscaping and associated works; details of the principal means of access; with all other matters to be reserved.
View:	Yes
Officer Recommendation:	Permit subject to a 106 Obligation
Committee Decision:	Refuse
Letters of Rep:	Update Report: Officer update; additional representations; letters from objectors' planning consultant and traffic consultant

GB: the committee is fully aware of the emotion generated and the elevated feelings arising from this application, from the many letters and emails demonstrating the strength of opposition and the crowded public gallery. We are now at the point of making a decision and the level of apprehension is palpable. Asks for an uninhibited debate – members of the public are requested not to applaud, cheer etc, and to allow Members to speak. Much care and thought has gone into who should be allowed to speak publicly on this application, and therefore the public are requested to maintain a dignified silence when listening to the debate. Speakers must be sure to stick to their allotted time slots.

[Five minutes allowed for Members to read blue updates.]

CH explained that this is an outline application, with all matters other than access reserved for the full application, including appearance, landscaping, lay-out and scale. The applicant has provided a masterplan, parameter plans and illustrative lay-outs to elaborate on the indicative lay-out in terms of land use, housing density, access and movement, green infrastructure, public open space and phasing. Under the pre-submission JCS, the application site forms part of the strategic allocation SA1, which allows for up to 1141 dwellings. The principle is well-advanced and the role of Planning Committee today is not to consider that issue. Members are required to consider the application before them on its merits and technical considerations. There are national requirements for planning applications to be considered within specific time scales, which mean it is not possible to defer a decision on this scheme any further without the risk of an appeal. The merits of the scheme, the development plan, the Local Plan, and the NPPF's presumption in favour of sustainable development should all be taken into account.

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Extra officers have been invited to the meeting to assist Members in their decision-making: Philip Stephenson (policy and technical matters), Wilf Tomaney (urban design, landscaping and lay-out issues), Paul Scott (air pollution), Sandra Donaldson (education), and Mark Power and Michael Glaze (highways).

The application is recommended for permission subject to an S106 agreement.

Public Speaking

(transcripts of all speeches attached)

In objection

- i. Martin Horwood, MP
- ii. Councillor Anne Regan, Warden Hill
- iii. Councillor Chris Nelson, Leckhampton
- iv. Dr Adrian Mears, Leckhampton with Warden Hill Parish Council
- v. Hugh Lufton, Lufton & Associates Planning Consultant, on behalf of LEGLAG
- vi. Letter from Michael Ratcliffe, Cheltenham Chamber of Commerce, read out by Martin Horwood MP

In support

- vii. Mark Sackett, RPS

Member debate:

GB: in view of the level of detail in the report, will take one or two Members' questions at a time and then go to officers for their responses.

BF: didn't realise that part of the land is owned by Gloucestershire County Council. There are three county councillors present this evening. (I thought there were two but might be wrong)

CH, in response:

- in this application, none of the land is owned by GCC, although it does own land in the larger strategic allocation of Leckhampton.

PB: would like clarification on affordable housing. We are told that it will meet policy requirements, and the town needs housing – but it must be the right sort of housing in the right place. Policy requirement is 40% but how much will we actually end up with, bearing in mind how much the application will cost the developer in terms of infrastructure?

AC: sees a conflict here. Members have received advice about the risk of deferral, but is concerned about the Local Green Space proposal which was submitted before the application came in. If the application is approved, the LGS application will be wiped out, when Members should clearly be considering it first.

BF: regarding education, attended a GCC planning meeting this morning where it was agreed that extra classrooms are needed right now to cope with current entries to primary schools in the area – schools which this application will feed. Any extra provision at the senior schools in the area will be taken up by those children already in primary education.

CH, in response:

- to PB, Policy HS4 of the Local Plan expects 40% affordable housing on a development of this size, and the emerging JCS Policy SD13 also asks for 40%, so policy requirement as it stands is 40%.

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PB: this is the expectation – but what does it mean in practice?

CH, in response:

- it means that 40% of the houses built will be affordable.

PS, in response:

- to AC, there are a number of issues concerning the Local Green Space application and neighbourhood concept plan;
- the principle of LGS is included in the NPPF. It is important to say that LGS designation won't be appropriate for most areas or local spaces – a very specific set of requirements is needed to qualify;
- Paragraph 76 of the NPPF states that local communities should be able to identify local green spaces of particular importance to them through local and neighbourhood plans. However, there is no designation of LGS at present and no neighbourhood plan – formalities have not yet taken place. What has been submitted is not an application for LGS; because there is no process by which LGS can be applied for separately from the Development Plan process;
- the neighbourhood plan concept statement has been considered through the JCS, which was accepted by Council in April, with recommendations made regarding the Council's wish to evaluate LGS in Leckhampton and NW Cheltenham. JCS policies INF4 and SA1 both refer to the identification of local green space;
- we have to balance the JCS process and allocations against consideration of any planning application in those areas, and consider what we are doing in evaluating the local green space within the application, what the Development Plan says, and what the JCS says as a material consideration;
- the Cheltenham Local Plan 2006 is silent on local green space, and there is no adopted neighbourhood plan;
- we must therefore look to the JCS and NPPF for guidance. JCS Policy SA1 states that new development within strategic allocations will be provided to deliver the scale and distribution of development in line with policies SP1 and SP2. Areas of local green space should be retained and enhanced within the boundaries of strategic allocations;
- so new development must be provided in the allocation, and areas of local green space must be retained and enhanced. We need to balance these requirements;
- in South Cheltenham/Leckhampton, 1124 units are required, and any applicant seeking to meet the strategic allocation should have regard to SA1 – which states that any application/the area as a whole must meet the number requirements for that particular allocation and identify areas of local green space in it.

[Martin Horwood – THIS IS WRONG!]

- national planning policy guidance, published this year, on the subject of how local green space development should relate to development, makes it clear that local green space should not be used to undermine plan-making.

CH, in response:

- will ask SD of Gloucestershire CC Education Department to answer BF's questions on education provision.

SD, in response:

- is it secondary education that BF is concerned about?

BF: the report refers to the developer contributing towards increasing secondary education provision in the area, but there is already a demand for any extra places which might be created – from the additional primary classes that are being provided currently and will feed into the local secondary schools. If children have to be bussed out of the area to Chosen Hill, there will be an additional financial burden on the county through transport costs.

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SD, in response:

- last year, discussions were held with Cheltenham Secondary Heads and Governors regarding opportunities for growth. Additional places have been created at Balcarras for this September, and there is ongoing dialogue looking at other potential areas for growth. When the dialogue resumes in November, the development of this site will be part of the discussion – the county is planning for growth in secondary provision in the area.

AC: will come back during the debate on the local green space issue, but officers should be prepared for a motion to defer.

JF: most Members are not in favour of outline planning applications, having been bitten by them many times before. There is a lot of talk about 40% affordable housing, and the developers have undertaken to provide 40% affordable of the 650 dwellings proposed, but what about a financial viability assessment? Have the developers provided one? They may say later that they can't afford to provide 40% affordable housing, and it would be very sad to see the number come down as it has done with other developments. We should have been provided with a financial assessment. Members have been advised against deferral, but why is this not an option if they require further information?

PT: was going to say the same thing.

MS: is also interested in the possibility of a deferral. Highways issues have featured predominantly in the report and representations, with a lot of talk about the difficulty that will be caused by stopping up Kidnappers Lane. What is the logic in that, in forcing traffic past the school and through the new estate? Kidnappers Lane is a pleasant, rural road – why not use it?

CC: month after month, Members express the need to see the affordable housing targets met, yet developers come back with various excuses, saying the land is contaminated or the figures don't stack up etc, and we end up with a far lower figure, sometimes only 20%. We have heard tonight both the developer and CH state forcefully that 40% affordable housing will be achieved. Would like officers to talk through the viability assessment, as he has heard a guarantee of 40% tonight and would like to know if there any mechanism for the developer to come back at a later stage to say there are difficulties in achieving this – yes or no?

Regarding education, has raised the issue with County officers on various occasions, regarding secondary provision, the JCS and future requirements, and has found the issue not particularly on their radar – their eyes seem to glaze over and they are quite surprised to hear these discussions on this and other applications. Residents and councillors are acutely aware of the issue of secondary education on the south side of Cheltenham, so why was a new secondary school not considered? From door-to-door calls, has heard that there is no space for local teenagers at Balcarras and Bournside; this development will add to the problem, so why no new secondary school? Can the education officer give assurance that Balcarras and Bournside have been approached and offered the opportunity to expand – all he has heard is that they have not? As a county councillor, has the impression the county education officers are not interested, and this is not good enough, considering an application of this size.

CH, in response:

- on the matter of affordable housing, we are told that the developers have undertaken to supply the policy requirement figure. If they only wanted to supply 20-30%, we would expect a viability assessment to be undertaken to show why they could not do more. We have an offer of 40% on the table, but there is obvious scope in the future for viability issues to come forward that have not been considered to date, and independent advice on that position would then be needed. There is no viability assessment and we are being told that there is no need to ask for one because policy criteria are being met.

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CC: is he right in understanding that if the applicants say they will provide 40% affordable housing, no viability assessment is needed, but if they say they will provide 39%, it would be? Is it right that all we have to go on is somebody's word?

CH, in response:

- the specifics of the provision of 40% affordable housing will be tied up in the S106 agreement. This is a technical requirement, and if policy is achievable, it will be. If it isn't, officers would look for this to be addressed and ask for a viability assessment at that point.

MP, in response:

- will attempt to explain how the closures work, with the help of the diagrams;
- the first closure is to make sure that the main access into the site can be accommodated the geometric layout of the proposed access would result in properties being moved if it was to stay in its current location
- the second closure forms a diversion along Farm Lane, but won't come forward until the whole of the masterplan area is developed, it is not proposed as part of this application
- Farm Lane will remain open to improve visibility; cars travelling from Brizen Lane to Leckhampton will still be able to use Brizen Lane;
- there will be a small diversion off Kidnappers Lane through the new access; the reason for this was explained on planning view. Kidnappers Lane is a leafy, single carriageway, with vegetation on both sides – to make use of this it would require widening, more drainage, streetlighting etc – the attractive green lane would have to be urbanised;
- residents say it is currently used as a rat run, but in connecting with the main access and new route through the estate, it will not be as attractive for rat-running;
- only small areas of road are being blocked and the disadvantages to motorists are not huge;
- Crippets crossroads is only being stopped up as part of the masterplan.

SD, in response:

- is quite surprised to hear CC's account of education officers' glazed eyes on the subject of secondary education in South Cheltenham;
- works in the planning and development team, whose job it is to ensure that enough places are available, and the team has been working hard on this over the last three years with primary take-up growing. 150 additional primary places have been found, and officers are already planning for when this primary bulge moves to secondary school and the impact this will have on places;
- has attended meetings with all secondary school heads over the last year to discuss this extra growth. Head teachers are aware of the needs, and 23 extra places have been created at Balcarras for this September;
- planning for growth in secondary education is high on the county's agenda, particularly in this area of Cheltenham, but this development in itself is not sufficient to generate a new secondary school, the cost of which would be £20-30 million;
- education officers are aware of the pressure in the system from the population rise and are looking at all options – they have not discounted the possibility of providing a new secondary school at some point, but timing is important here to ensure that growth does not have a negative impact elsewhere;
- a further meeting is scheduled for November, with all secondary heads and county councillors, to consider what needs will be 2016-17 onwards; all proposed and new housing developments will be taken into consideration within that. It may be agreed that a new secondary school is needed – this has not been ruled out – but expanding existing schools is an option and both will also be discussed.

TC, in response:

- the issue of education provision has previously been raised at planning committee and at full council, and also discussed in relation to the JCS. Further conversations are taking place,

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with pressure being put on the county council to consider how it is going to manage the bulge coming through;

- CBC is facilitating a meeting between the head teacher and Chair of Governors of Bournside and the Chief Executive and Head of Planning, and is pushing the matter forward for Cheltenham. Changes won't necessarily occur this year or next year, but it should be remembered that not all children are coming on board at once;
- Bournside School certainly seems open to the idea of growth but this needs to be worked through, and CBC will support the process throughout.

CH, in response:

- on the question of deferral and what will happen next from the applicants' perspective, a non-determination appeal would be likely to follow. If there is any technical reason for deferral, the decision might reasonably be deferred for a month or two, but if deferral is proposed on the grounds of prematurity and requires the JCS to be finalised, the applicant would not be prepared to wait for this and would lodge a non-determination appeal. This decision is in the applicants' hands;
- there is a section in national planning policy guidance which states that deferral on the grounds of prematurity is seldom justified, and where there is a refusal of these grounds there needs to be a clear indication of how granting permission could prejudice the outcome of the plan-making process.

JF: if Members vote for deferral and there is a non-determination appeal, what will happen next?

CH, in response:

- if a non-determination appeal goes ahead, the application will be brought back to Committee for a decision on whether Members were minded to approve or refuse; it would then go before an Inspector at a public inquiry.

BF: regarding affordable housing, current policy requires 40%, but under the emerging JCS this is an *aspiration* rather than a requirement. Which would it be in this case? Has concerns about this. Regarding education, Balcarras is an academy and can set its own admissions policy and limit its intake. The education authority can put pressure on but could be told to go away. There is no quick fix here, although it is good to be talking.

PB: this is a huge application and does not feel he is not getting the clarity needed to consider it properly and make a decision. Housing is a big issue for the town - does not want to see 350 three-bedroomed houses with garages, but is not hearing any guarantee that we are going to get 40% affordable housing from this development unless it is in the S106 agreement. How many times is CBC successful in getting 40%? Regarding local green space, our MP wrote the document and does not agree with the officer who is interpreting it; it is a shame we cannot hear from the MP. The JCS has been passed but we should look at the LGS application from Leckhampton as part of the process.

CHay: regarding secondary school places, this is more an issue for county councillors, but was looking at the figures about a year ago, and noted that more children than go to Bournside actually go out of the town to school – so we could clearly build a new school just to accommodate existing Cheltenham pupils. There are strong arguments for extra growth for local secondary schools, not as part of the JCS, as it is a shame to send pupils to Gloucester, Bishops Cleeve and other places out of Cheltenham – sticking a few extra pupils here and there is not good enough.

The question of whether prematurity can be used as a refusal reason is critical – asked this question when the JCS was approved by Council with regard to the Local Green Space application. An LGS application is already in for Leckhampton, for an area where the local community wants it, not where the developers want it - this will prejudice part of the process. Specifically asked whether the LGS issue would be mopped up in the Local Plan and whether that

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would prejudice the applications and was assured it wouldn't, yet here is an application that will prejudice it, despite assurances given at the time. Would have difficulty with this unless it can be argued how to go about it. Guidance at the time stated that the LGS was not there just to block development – understands this, but has had no answer on how we actually look at LGS applications already in.

DS: much is being made of the traffic situation, and the highways officer has explained why two access points between the A46 and the main body of the site are needed, with one priority junction. Would it not be easier at rush hour to install a roundabout here? If not, why not? These could also be used at junctions within the site.

PT: on the S106 situation, Members all know that they vote through developments which say 'permit subject to S106' and promise this, that or the other, and all know that developers come back saying sorry, we couldn't do this...and changes are made under delegated powers, so Members don't even know if the things they wanted to happen have happened or not – it doesn't stack up. S106 agreements should have teeth, with legal redress if they are broken. Has seen this happen so many times and is very wary of these promises. We need 40% affordable housing - that's 260 houses. How can we be sure of getting them, and not of this figure being knocked down to 10%?

HM: the junction referred to by DS is marked as having bus priority, and is concerned about the safety of drivers exiting from the junction on other side when a bus is turning right. What is the distance between the junctions for buses and cars? This is the wrong solution: buses will be leaving the site every ten minutes, making it difficult for other motorists to turn left onto Shurdington Road. Regarding the proposed primary school – at which phase of the development will this be built? It would be pointless if it were the third phase. Regarding the proposed doctors' surgery, notes from the objectors' letters that this may be a transfer of the existing Leckhampton Surgery in Moorend Park Road. Is this the case or will it be a new practice? If it is to be relocated, how many extra patients are likely to be catered for as a result of the development?

CH, in response:

- regarding affordable housing, the 40% required has been broken down in the application in accordance with what is required in the heads of terms: 13 one-bed, 132 two-bed, 104 three-bed and 13 four-bed units. This overall provision demonstrates that not only three-bedroomed dwellings will be provided and the lay-out shows a mix of housing types within the development. It should be remembered, however, that these drawings are only illustrative, and a reserved matters application will be brought back to planning committee;
- this mix can be changed. The policy requirement of 40% is based on local need, and if local need is reduced to 30%, this would be OK – the policy requirement is the demand at the time;
- it is an ever-moving picture, but we always look to provide 40% - it was achieved at the Midwinter site, and is the starting point in negotiations. We have to look at other issues, such as the 5-year housing supply, and sometimes have to look to change, but as it stands today, the proposal includes 40% affordable housing with break-down.

TC, in response:

- Members must remember that this is an outline planning application, not a full one. It should be looked at on its merits. Very long and detailed negotiation has already taken place, especially on the S106, and this includes delivery of 40% affordable housing;
- a lot of work has taken place behind the scenes by the housing enabling officer and this has changed over time.
- the reserved matters application would come back before following exactly the same process – all the same consultations and all commitments achieved with the scheme;
- we are not looking for the sort of detail required for a full application at this stage.

CL, in response:

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- under current legislation, a developer cannot seek to modify a S106 agreement for a period of five years unless the Council agrees, except on viability reasons due to affordable housing requirements;
- in this case, a formal application can be made before any five-year period has expired and a refusal could be subject to an appeal process;
- planning permission could be granted and the 40% affordable housing would be binding unless an application comes in for modification;
- this application has been submitted with 40% affordable housing and there are no viability issues being put forward at the moment.

PS, in response:

- on the subject of local green space, the question was asked as to why there is conflict between matters discussed earlier and the MP's view of these, and what we are determining this issue on;
- it is quite clear what the committee should determine the planning application on – planning law requires that it must be determined in accordance with the Development Plan, together with any other material considerations;
- the Development Plan is the 2006 Local Plan; material considerations are the NPPF, national planning practice guidance, and the emerging JCS;
- a decision is needed on the application and we need to decide if the Development Plan is absent or silent on a matter; or whether material considerations indicate that the application should be decided otherwise than according to the Development Plan;
- on the matter of prematurity, the presumption in favour of sustainable development, applies in this case, in accordance with Paragraph 14 of the NPPF; this means granting permission unless any adverse impacts of doing so would 'significantly and demonstrably outweigh the benefits' of the development;
- where planning permission is refused on the ground of prematurity, it should be where granting permission would be seen to prejudice the outcome of the plan-making process;
- there has been a number of significant cases of call-ins by the Secretary of State:
 - at Lytham St Anne's in 2012 – ruled that the prematurity defence cannot be used if no other settlement is being deprived of an opportunity to expand by the new development;
 - at Yew Tree Hill in 2014 – extra homes were proposed with no decision as to where to allocate them – the prematurity argument advanced by the council was rejected by the Secretary of State;
 - even if there is a degree of conflict with the emerging plan, this doesn't mean the prematurity argument will be successful. At Tetbury, a development was proposed in the AONB, contrary to the emerging development plan, but the Inspector granted permission.

MP, in response:

- a roundabout would not fit at the end of Kidnappers Lane – roundabouts take up a lot of space, and need to be off-set against the main road. There would be no room for deflection and it would be unsafe;
- the main access is designed to give buses the advantage, which is critical here at this priority junction on a main route, with buses every ten minutes;
- for buses turning right from the bus-only exit, the traffic turning left from the priority junction will be held briefly by lights;
- this is the right type of junction for these particular circumstances, allowing bus advantage.

SD, in response:

- for the record, both Bournside and Balcarras are academies;
- it should be remembered that many children migrate voluntarily out of Cheltenham for their schooling – parental preference, to grammar schools etc – parents are opting for a preference of school;

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- the size of this development wouldn't sustain a new school itself, but with population growth and other factors, the education authority is looking at the potential for new development from 2016-17;
- reaching the trigger point for a new primary has been taken into account given the fact that spaces in local primary schools are at a premium. The county is in negotiation with the developer for early release of the land to support a new school.

CH, in response:

- to HM's question about the doctor's surgery, if the existing Leckhampton Surgery were to relocate to the new development, it would offer additional capacity to cope with the new population.

GB: a lot of issues have been covered, and officers have given their best answers. Members should be aware that they do not need to go over the same ground again.

AM: Members have been provided with a lot of detail in the papers, and there has been a lot of discussion about affordable housing, schooling, traffic etc, as if this was a full application. It is an outline, and we need to clarify what this means. It should be remembered that Paragraph 1.3.1 of the officer report lists potential uses and facilities but all the developers are really asking for at this point is permission to build – any, some or all of these uses could be included in the full application. Can officers clarify exactly what the applicant is committing to at this stage?

MB: on the subject of prematurity, if the application is approved and we are committed to an S106 agreement on the site, but the JCS subsequently changes, how does this affect the other Leckhampton site? Where does this stand with the whole issue?

CC: looking at Condition 12 and wearing his cabinet hat, notes this is a standard condition which has let people down too many times. Difficulties experienced by UBICO in collecting waste from new housing developments are well-documented, so can we firm up the condition if the proposal is approved. Express confirmation from UBICO that it is happy with all the road lay-outs should be sought. The same applies to Condition 32, bearing in mind the weight of the refuse vehicles. This is a significant question and worthy of consideration at this point, in view of the new relationship between CBC and UBICO – can UBICO be included as a standard consultee on applications such as this, and nothing be signed off until it is happy?

BF: is surprised by Condition 2. We need houses by 2031, but the developers may not even start building for five years. When will the primary school be built? There should be a condition about when the development must be finished. If the developers get permission to build, when they actually finish the development is entirely their choice.

JF: is in a quandary. The highways report states that the development will have some impact but it will not be severe, but what does severe mean? The NPPF states at Paragraph 32 that developments can be refused if the cumulative impact is severe. Clarification is needed here.

CH, in response:

- to AM's question about what precisely this outline application is for, the applicants have reserved a lot of matters for later consideration. If permission is granted, the access points will be fixed, but the remainder of the drawings are indicative only. A lot of detail has been provided to demonstrate that what the developers are proposing can be achieved and brought forward at a later date;
- the applicants have identified an area for community facilities, with a number of uses put forward. What is actually built there will depend on the S106 and further information about local requirements, which will be brought forward at a later date - a lot of what is shown could come forward with the reserved matters application;

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- to CC regarding UBICO access, UBICO has recently circulated a new guidance document which could be referred to in conditions to ensure that new schemes comply with their requirements;
- to BF, apologises that Condition 2 is actually the wrong condition – it should refer to the application of reserved matters and a start within two years from approval of reserved matters - this is a standard condition. The planning authority cannot influence the finish date of a development – its hands are tied on that. (Correct)

MP, in response:

- to JF's concern about the NPPF's reference to 'residual cumulative impact' and what can be classed as severe, this is intended to ensure that local authorities only prevent developments in extreme conditions;
- the development will inevitably lead to more trips on Shurdington Road, but with the solutions proposed by the highways department, the impact will not be severe in the context of the NPPF.

PS, in response:

- to MB's question, if the application is approved but the JCS isn't, there are a number of issues here;
- the trajectory of the JCS is moving forward – it is currently at pre-submission stage. If the Inspector or the authorities change the sites before adoption, or if the JCS is not adopted, that will not alter any decision made today;
- if the JCS is adopted in its current form, a permission granted today will form part of the strategic allocation. If the rest of the site, for any reason, was not required to come forward to fulfil the requirements of the strategic allocation, the planning permission would still stand in its own right;
- the JCS is a material consideration when looking at this application but is not part of the Development Plan . Cheltenham's 2006 Local Plan is absent and silent on some of these issues, and the 2006 plan period ended in 2011. Cheltenham is currently without an up-to-date plan;
- there are implications of this when taken together with the lack of a 5-year supply, although we are seeking to demonstrate that supply through joint working with the JCS. The strategic allocations at South Cheltenham and NW Cheltenham demonstrate how we will seek to meet the 5-year supply in the future, which we currently cannot show;
- the NPPF takes a harsh line on this at Paragraph 49, stating there is a presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the planning authority cannot demonstrate a 5-year housing supply;
- the current situation is that we have not planned for our needs at the moment, but are seeking to do so in the JCS;
- Paragraph 14 of the NPPF sets out what to do regarding decision-taking where the Development Plan is absent, silent or out of date – permission should be granted unless the adverse impacts outweigh the benefits or specific policies in the NPPF indicate the development should be restricted. Policies which might restrict development relate to birds and habitats, greenbelt land, local green space, AONB, national park, heritage assets, and locations at risk of flooding, all of which have been dealt with by consultees in the officer report;
- in the absence of a new development plan or up-to-date Borough plan, this application must be assessed in the light of the NPPF.

[comments from public gallery]

CL, in response:

- reminds those present that the meeting is open to the public but is not a public meeting. Calling from the gallery is not appropriate

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[Martin Horwood: has a statement from a senior officer of the council saying that the 2006 Local Plan is still valid.]

GB: is sure that the local MP understands that CBC rules and protocol must apply here and that the debate is not open to the general public. People in the gallery have been asked to observe that protocol. They have had opportunities to make their comments known on all issues via email and letter, and there should be no more interruptions from the public gallery.

TC, in response:

- addressing Members only, reminds them that this is not a debate for members of the public or for the MP to join in;
- the issue here is clarity about the status of the Development Plan – the Cheltenham Local Plan 2006;
- the Local Plan was approved in 2006, with an end date of 2011. The council has saved some of its policies under regulations and is allowed to do so;
- the NPPF has subsequently come along and stated that if the Local Plan is silent or absent on a particular matter, the planning authority must look to the NPPF for guidance;
- the Local Plan has been silent on development since 2011, although it is not invalid on all issues; parts of it are out of step with the NPPF and in that context, we must use the NPPF when considering the requirement for the delivery of a 5-year housing land supply;
- the status of the Local Plan is that it is dated, and will be replaced by the JCS and a new Cheltenham Plan. The authority is some way behind in its new local plan preparation, but until it is approved, we must still use the old one.

GB: there are several Members indicating to speak, but one and three-quarter hours into the discussion, there has only been one reference to deferral. Many Members have spoken in opposition to various parts of the application but no moves to refuse or defer have come forward. Reminds Members that we will need a substantial reason to defer or refuse the application, and they should be thinking about this.

PT: is once again confused. AM has raised the point that what we are considering is an outline application, but there is an awful lot of detail in the various documents, of which Members have read as much as they can absorb. Is confused about what we are going to decide tonight, and would be grateful if TC would explain. Would be happy to support a deferral, but is not happy about finding planning reasons for deferral. Would like an officer steer.

BF: suggests a five-minute break. There are still many questions to be answered. Paul Scott has yet to speak about air pollution. Does not want this decision to be rushed – Members need to debate it.

GB: is conscious that the meeting has been long so far. Has four more Members indicating they want to speak, after which the meeting can be adjourned for a short break.

AC: regarding the local green space, has heard a lot of fudge but not an answer. Is there an LGS application on this site? If so, why has it not been heard by the committee?

CHay: one speaker referred to a number of cases where the Secretary of State approved applications where there was no 5-year housing supply – officers quoted all cases which support the officer view. Are there any cases where an appeal was dismissed despite there being no 5-year supply in place? Our 5-year supply will be shared with the other authorities in the JCS – this has been mentioned before – and is not sure where this stands at the moment, although the authorities seem to be working well together. Supports GB in his efforts to stick to normal committee procedure and protocol at this meeting. This is important, not because the decision may or may not be the same but because at an appeal, any variation in procedure or going against

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protocol may weaken our case. This is not to say there are valid comments which could be made, but we could end up in serious trouble if we vary procedure.

GB: thanks CHay for his support – this was his concern, not to deviate from what we normally do.

CC: agrees with CHay's position and supports GB too, suggesting that this advice should flow through the upcoming break in the meeting and afterwards. Is a lay member of the committee, but as a councillor is able to listen to the advice of experts, and also pay regard to the MP – who was involved in writing the document on which a senior member of the council is now giving conflicting advice. Members of the public no doubt feel that hearing what the MP has to say could resolve the problem.

Has a question for the legal officer to consider: would there be any scope for a judicial review based on the decision today if the substance turns out to be questioned by written documents in the possession of others? Confirmation of the position of the committee on this conflict would be welcome.

Where are Members in regard to this application now? Is struggling with the possibility of deferral and a non-determination appeal, but is troubled by what he is hearing but doesn't want to be put over a barrel. Is moving towards reasons to refuse and will expect support from officers and assurance to members of the public that this will be the case – expects them to spend the break considering how this can be achieved. Will be looking for assistance as a lay member of the committee and an elected member of the council on behalf of the people of Cheltenham.

JF: remains concerned about traffic on the A46, and believes the impact of the new development will be severe, allowing the NPPF to be rightly and properly used as a refusal reason. Also considers that local policy TP1 is a valid refusal reason. Uses the A46 regularly, and it is frequently chock-a-block; the traffic lights outside Endsleigh building do not help and it only takes one cyclist for there to be long tailbacks. The road is not ready or able to cope with an extra 650 houses.

CH, in response:

- to PT's comments about the volume of information provided for this outline application, it has been previously stated that although this is an outline, the applicant is trying to provide as much information as possible to give security that the development can be brought forward at a later date. The detailed drawings and supporting documents provide a lot of information to show that the scheme is achievable;
- the design and access statement has been provided with this illustrative scheme, and by way of reference to elements in conditions, will pull through to the reserved matters and will be accommodated the full details as submitted. The applicants have made commitments to bring forward to scheme as written. Officially the only fixed matters are the points of access, but Members can be sure that the reserved matters application will need to be in accordance with the outline.

GB: before the break, will ask PS for further comment on the local green space and 5-year supply.

PS, in response:

- the question has been asked as to whether there is a LGS application and if so, why it has not been considered by the council;
- as stated in the previous answer, there is no process set out in legislation or in the NPPF except to state that the local green space is identified in the Local Plan or neighbourhood plan;
- the concept of neighbourhood plans and local green space was considered when drafting the JCS and subsequently at full council, but other than in the Development Plan, there is no discrete process to address this particular issue;

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- the Leckhampton LGS application can be considered through a formally-made neighbourhood plan;
- the council's resolutions about local green space are being enacted, and a proposal has been made to cabinet to assess local green space within communities and provide a toolkit. There is no specific timescale as to when this will conclude. The ball is rolling and the process is about to start but it cannot form part of members' consideration of this application;
- it is not for the applicants to identify or allocate local green space. Under Policy SA1 of the JCS they can be asked to retain and enhance existing green space within development, and in officers' estimation, the developers at Leckhampton have done this;
- it is now up to Members to decide whether they consider the applicants have done this;
- regarding the 5-year land supply, the question was asked as to whether we are working together with our JCS partners to create a 5-year supply?
- the answer is yes. In January 2013, a 5-year supply statement was issued, based on RSS figures and figures from the structure plan; both these documents have now been deleted;
- in April, the JCS was approved by the council, with an ongoing shared 5-year supply. National planning practice guidance allows us to do this, and into the future, we will plan to meet our needs on a joint basis using the joint 5-year land supply

MP, in response:

- as stated in the report, it is inevitable that this development will have an impact on the A46, which is particularly busy during the peak hours of 7.00-8.00am and 4.00-6.00pm;
- the developer has tried to use the maximum corridor along the A46; however this part of the network is constrained
- apart from those peak hours, A46 traffic is relatively free-flowing for much of the day. On planning view, Members viewed the site from Leckhampton Hill and could see there was no queuing at that time;
- there is unarguably some congestion along this road, but the highways department does not consider it to be severe; is not sure that this would stand up at an appeal. Has looked at other appeal cases, and can only find two where traffic issues were successful, and in those instances, the traffic was initially much more severe;
- in Gloucestershire, there are many, many corridors with much worse queuing than that seen on the A46. If the A46 congestion is considered severe, elsewhere it is much more severe. The advice of the highways department is that the traffic situation on the A46 is not severe.

CHay: do the three JCS areas together show a 5-year supply?

PS, in response:

- together the three JCS authorities can show an ongoing 5 year supply based on the strategic allocations coming forward. However we will need to caveat this with some caution because the trajectory is based on how quickly these sites can come forward;
- we need to work on a trajectory that everyone is happy with for the delivery of the sites ;
- 5-year housing supply cases cover a wide field, but the cases where schemes were refused in spite of there not being a 5-year supply are cases where the area of the development was in the green belt or otherwise protected, though such protections are not absolute;
- for example, the proposal at Hunting Butts was refused at appeal, because although the council does not have a 5-year supply, the area is in the green belt. There are a number of other cases similar to this;
- there are other cases where the complete failure of an authority to provide a 5-year supply has meant appeals succeeding even in the AONB;
- maintaining a 5-year land supply has consistently been shown to be of a very high order of importance. It is all about balancing the different elements of each individual scheme.

GB: the meeting will now break for 15 minutes. Members are reminded not the discuss issues outside the Chamber or with members of the public.

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[Break]

GB: Members need to think about how to move the meeting forward regarding a conclusion. There will need to be a vote to continue after 10.00pm, and does not want to adjourn the meeting to another day if possible.

PB: officers have given information about appeals won or lost on land supply issues, but surely CBC is in a strong position here with 4+ years' supply. Is there any information about cases won or lost on prematurity?

MS: sees this application as a sales document, to encourage Members to vote for it: facilities for local residents, nice green areas and playgrounds etc. At the end of the day, this is not realistic – it is purely indicative, and anything can happen between now and implementation. Is not saying the developers don't have good intentions – is sure they have – and as a basis of the full application, this is going in the right direction. Will move to defer, pending receipt of the full application. The developers owe it to the people, regarding the housing side, the road lay-out etc, and all the missing bits of the equation. This is not too much to ask – the scheme has been worked on since 2008, and a full application could be worked up in a couple of months. Then Members will know exactly what they are being asked to vote on.

PT: on planning view, Members considered the size of the units – two and three storeys – which doesn't fit with the local scenery in this location, particularly regarding the view to the scarp. Members need to know whether this can be altered.

AM: Agrees with MS. Members are being asked to vote in principle on whether development of the whole of the site is acceptable, with no commitment from the applicant. Does anyone really think there will be a cottage hospital on the site? This outline application must be rejected, with the comment that a full application will be considered. The applicant is circumventing the JCS which is still at consultation stage. This land is a strategic allocation, but if this proposal is approved tonight, the status of the land will be changed making that consultation invalid. Members are being asked to do the wrong thing. Will be happy to look at a full application and debate traffic, schooling etc, but debate on an outline application is all hot air – the scheme is a shopping list of things the developer would like Members to approve. The developer should put in a full application or wait for the JCS to take force. Approving this application at this stage would be wrong.

TC, in response:

- an outline application before a full application is submitted is usual, and the planning authority has a statutory obligation to consider it. Planning Committee has considered many outline applications in the past and although Members are uncomfortable about receiving them, they know that the reserved matters application will fill in all the details;
- the conditions on this scheme are very detailed, and a thorough Design and Access Statement has been provided by the applicant, which provides a lot of detail about the reserved matters. It is the principles established at the outline stage which will need to be taken through to the reserved matters stage. We cannot ask the developer for a full application at this stage;
- regarding a deferral, a lot of information has been given about prematurity, NPPF and national planning policy guidance – deferral will lead us to a non-determination appeal, which will come back to Members requiring an indication of whether they were minded to refuse or permit the scheme;
- at a non-determination appeal, the local authority will lose control of the application over conditions – the Inspector will make those decisions instead;
- however, it is up to Members to decide – officers cannot make the decision for them.

CL, in response:

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- MS's suggestion to defer and request a full application is not appropriate. There is an application before Members, and it is the local authority's duty to determine it – to refuse or permit, unless there is some technical issue which warrants a deferral. Officers have given their advice, and although it is not unknown for Members not to take it and they do not have to follow it, they should bear in mind that there could be serious cost implications if the Inspector considers that the authority has behaved unreasonably.

PS, in response:

- to PB's question regarding prematurity and whether we know of any cases decided in favour of a council's refusal to permit a scheme on the grounds of prematurity – cannot recall any cases in the last five years, with the opposite being overwhelmingly the case. Prematurity was used considerably 6-7 years ago, but things started to change after that. In a complicated case at Queensway, St Anne's in Lytham, prematurity was fully debated but the Secretary of State did not uphold the argument. This is relevant here, as there is no evidence that any other settlement will be deprived of the opportunity to expand. Regarding the JCS, Cheltenham is a large settlement where development is expected, as made clear by the Inspector when considering the Hunting Butts appeal. He recognised that development somewhere in the greenbelt close to Cheltenham is inevitable: – and this land at Leckhampton is not greenbelt.

WT, in response:

- to PT, the parameter plan sets out where the developer suggests areas of the site for two- and three-storey development (shown by different shades of blue on the drawing). Of the areas where three-storey buildings are proposed, only 20% of the buildings will actually be built to that height, at focal point, corners etc – it will not be blanket development across the whole area. The three-storey elements are currently suggested as offices and will probably be no more than six or seven individual buildings with gaps in between. This is not unreasonable, as the buildings need to work as office space. TC has outlined the status of the application, and if it is approved, we would seek to hold the developer to these plans.

HM: thanks officers for the wide-ranging conditions on this application in order to make clear what we would expect to see in the full application. Asks if the drawing numbers the conditions refer to are fixed, for now and in the future?

PT: is not happy with WT's comments that we would *seek* to ensure the developer carried through the outline proposals to the reserved matters scheme. This is not good enough when making such an important decision – it is pie in the sky. Members have been told that if the applicant goes to appeal, there could be huge costs to the council. Is there any indication of how much this is likely to be? It is ludicrous to spring this on Members and not good enough.

CC: there appears to be some conflict between advice from officers and information from the MP. Would there be grounds for a judicial challenge if the advice Members have been given by officers was proved to be incorrect?

CH, in response:

- to HM, the condition gives an approved document list and other conditions also refer to submitted documents. The conditions go beyond 'seek to achieve'. For example, Condition 6 of the outline application covers design principles and requires the reserved matters application to comply with the objectives of the outline.

TC, in response:

- to CC, we all know procedures have to apply in the Chamber, and the passing of information from the MP or anyone is not acceptable. The matter in question was not referred to during his five minutes' speech.

CC: it was.

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TC, in response:

- officers have provided guidance on that point;
- to PT, if the application goes to appeal, there will be financial implications, and although it is not appropriate to talk about the likely level of costs, it will be greater than that at the Hunting Butts appeal, as technical advice from outside officers will be needed.

WT, in response:

- to PT, the word 'seek' was a slip of the tongue – what he meant is that we *will* condition these plans.

CL, in response:

- to CC re possibility of judicial review, this is always open if incorrect advice has been given, but officers are confident that they have given correct advice.

CHay: can officers clarify the difference between refusal and deferral on this case and whether the applicant can appeal on both.

CH, in response:

- a deferral could trigger a non-determination appeal, when the decision has gone beyond the statutory timescales. The Committee may not be able to make full comment, but would be asked by an Inspector what it was *minded* to do;
- an outline application is a legitimate process – allowed for in regulations and supported with a lot of information in line with the officer recommendation.

CHay: so if Members defer, they would have to say what they might have refused on, or they can refuse with stated reasons – Members must decide which option they feel would be easier to defend. If Members are moving in one of these directions, they need support from officers as to which route is better to take. Even if it is not officers' preferred option, what sort of thing should Members be including in order to better defend their position?

TC, in response:

- deferral for prematurity regarding the JCS would be weak case. On deferral for prematurity regarding the Local Green Space application – as officers have explained, we are now entering a process agreed by the Cabinet to be included in the Cheltenham Plan but which is as yet undetermined;
- if Members are looking to refuse, they need planning reasons. Officers can help with this, but not give them the reasons;
- officer advice is that the reasons suggested for deferral are weak and that the officer recommendation is to permit. If Members don't support this, they need to bring forward refusal reasons through debate.

CHay: but which is the better route – refusal or deferral – in officers' opinion? Knows how strongly officers feel on this, but one route must be better than the other.

CL, in response:

- if the decision is deferred and a non-determination appeal is lodged, officers will come back to Planning Committee to ask what their decision was likely to have been, so Members would only be putting off a decision which they should maybe be making now. Unless there are real technical reasons for deferral – such as an issue requiring further technical information or advice – it should be avoided.

CC: is anxious about going down the deferral route as there are no technical reasons for it, but doesn't want to vote until he has heard all the possible outcomes. There are, however, potential reasons for a move to refuse, but before pursuing these, would like to make some comments as a

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matter of record. Many Members have received an email – included in the blue update – which comprises a sad set of accusations, calling Members ‘Little Hitlers’ amongst other things, accusing them of taking back-handers etc. Wants to assure the applicants he feels under no pressure on account of this email, and equally to assure objectors to the scheme that this email doesn’t water down their comments and genuine concerns.

As a councillor, is well aware that we need more houses in Cheltenham. Has spoken to people on their doorsteps in his ward, St Mark’s, who worry about where their children are going to live. Recognises the need for good-quality housing and is sure that all Members feel the same. Does not consider the objectors to be NIMBYs – they are concerned local residents. In recognising the need for good-quality housing for local people, Members have permitted schemes at Travis Perkins, Chris College, and other large-scale developments, despite the fact that they were not popular with local residents –it would be wrong to say that Cheltenham is not open to development.

However, considers this outline application to be like something he might have built out of Lego as a child and been rather pleased with the result. The first major issue concerns traffic, and although MP’s comments are welcome, he cannot agree with them. Has serious concerns about the A46 as a resident of the town, and notes there is no real reference to the pollution issues at the junction of Shurdington Road and Moorend Park Road. The proposed diversion through the new development would become a rat run – there has been no discussion of this – and everyone knows about the traffic problems arising from the weight of traffic on this side of the town, with the County Council currently working hard to alleviate problems outside Leckhampton School. The proposed development will cause such severe disruption and no amount of alleviation will meet the mark.

After four hours of debate, hopes that members of the public will leave with a good opinion of Planning Committee.

We have not heard about environmental issues on the site. On planning view, Members viewed the site from Leckhampton Hill and also walked along the A46 to look up into the site. The view to the hill is singularly unique, an important view, and it will be lost, although we are told that by standing at a certain point, it will still be viewable. The proposed local centre is so big and of such proportion that the view will inevitably be destroyed. Questions whether this is even needed, with a number of local shops in the vicinity.

In addition, the land which will be lost has great local value, and is part of a network of historic footpaths which stretches across the whole of the town. Valued agricultural land would also be lost. These are his initial thoughts – on the views, the unique nature of the land, and its amenity value.

Another issue is flooding. Has heard the advice of the Environment Agency, but as a local person who saw the effects of the 2007 flooding, is not satisfied with this. We are being told that the proposed scheme won’t make it worse, but this advice conflicts with what local people know.

Then there is the pre-emptive nature of the proposal. The issue of Local Green Space is very much alive. Is concerned we could be put over the barrel if this is pushed into a space where it can be ignored.

Suggests the following Local Plan policies could be used to refuse the scheme:

- CP1: sustainable development – conserving and enhancing natural resources and environmental assets – this doesn’t;
- CP3: sustainable environment – the proposal will cause harm to this particular setting and the view from Shurdington Road;
- CP4: safe and sustainable living – takes issue with advice received and the unacceptable levels of additional traffic;

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- CP7: design – although this is only an outline application, it doesn't complement the local environment.

Will move to refuse the proposal, although MS's move to defer may need to be taken first, allowing Members to nail their colours firmly to the mast. Other Members may support his suggested refusal reasons or want to enlarge on them, and officer advice on whether he has quoted the right policies would be helpful.

GB: in minded to take the vote on MS's move to defer pending a full application. If this is lost, the meeting can go on and the move to refuse be taken forward. Does MS still want to move to defer?

MS: yes. Looking at the lay-out given, considers this is probably as good as we will get as far as the developers are concerned, but would like the opportunity to take it apart in more detail and see a full application on this site - the debate tonight will then be a lot more meaningful. A lot of areas in the outline plan are indicative – they may or may not come about – but the developers have clearly done a lot of work and should be given the benefit of the doubt, as this is a whitefield site and part of our strategic plan in the JCS. Looking for sound refusal reasons is very hard, so we should ask the developer to come back and say exactly what they intend to do with the site. It may only take a month or two.

PT: on a point of information, Members should be reminded that if they decide to wait for the move to refuse and don't actually support the move to defer, the application could go through on default.

CL, in response:

- with reference to committee protocol, it's correct that if there is a move to refuse and the majority vote for it, the application is refused, while if the majority vote against it, the application is permitted by default, and vice versa. Protocol is not specific about deferral – an application isn't automatically permitted if the move to defer is lost. If it is lost, officers will look to Members to vote on the officer recommendation or move to refuse.

Vote on MS's move to defer, pending full application

1 in support

12 in objection

MOTION LOST

JF: CC has come up with some good ideas, but would like to add TP1(a) regarding new access onto existing main highway network, and also Paragraph 32 of the NPPF, which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe – this has been referred to earlier and conflicts with MP's use of the word 'severe'.

BF: in addition, would like to include all the policies suggested in Paragraph 5 of Lufton & Associates' letter to Committee on behalf of LegLag – the significant adverse affect of the AONB and local landscape, contrary to Paragraphs 109 and 115 of the NPPF, policies CO1 and CO2 of the Local Plan, and policies SD7 and SD8 of the pre-submission JCS.

GB: is CC willing to take on additional refusal reasons in his move to refuse?

CC: will confirm his position after the debate, but would like to make the refusal as strong as possible. Would also like to include AM's comments on prematurity.

PB: suggests that Policy GE2, concerning private green space, is relevant here. Councillors are not planning experts and need professional advice from officers on this. Two weeks ago, Members

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voted against officer recommendation on the application at Cirencester Road, and officers subsequently came up with a coherent set of reasons to refuse. Who is setting policy here? Wants the council to have the strongest possible chance of winning an appeal.

GB: officers cannot put forward refusal reasons; it is up to Members to decide where their concerns lie.

CHay: not sure if this is ground to refuse in itself, but would like to use the issue. There has been talk about the application being premature in relation to the JCS, but considers that it actually undermines the whole JCS process – not sure if this is simply because it is premature and takes one piece of it out of context. Has seen far worse proposals than this and maybe, at the end of the JCS process, a very similar scheme will be put forward, but at this stage, it is undermining the JCS. Exactly the same concern applies to the Local Green Space application – this has been put in for communities to use, the community has tried to use it, but this proposal pulls the rug out from under it. Prematurity is not a strong enough word – this proposal completely undercuts the JCS and LGS application.

GB: we have now reached the four-hour mark. Members need to vote now on whether to continue the meeting or adjourn.

Vote taken on whether to continue to the meeting

13 in support – unanimous

CONTINUE MEETING

GB: to officers, for clarification about refusal reasons put forward so far.

TC, in response:

- Members may not want to hear officers' responses, but it is important to set out their view on all the points put forward;
- regarding concerns about the network of footpaths, flooding issues etc, we have technical support these matters, and the Council has included this land as a strategic allocation in the JCS – from that it has to be concluded that this committee supports development in this location;
- it is important to narrow down the points – throwing the book at refusal reasons isn't necessarily positive from an Inspector's perspective;
- two particular issues have been highlighted by the debate – the impact on the AONB and the problems with traffic on the A46;
- regarding transport, there is disagreement between Members and officers. Members must be sure in their minds about the evidence of Gloucestershire Highways. It is then up to Planning Committee whether it accepts that advice;
- a number of other areas of concern have been thrown in, in particular concerning the AONB and loss of views. While this is a weaker argument than the transport issue, it could be worked into a refusal;
- to repeat, loss of the site, the network of footpaths, and prematurity are issues which would be difficult to defend. Members should concentrate on the two issues above.

PB: why is GE2 not relevant in this case?

TC, in response:

- GE2 is largely concerned with the development of private green areas – land in gardens, viewable from the town. Here we are talking about an area of town with options already agreed between the landowners and developers, and it is the will of the landowner that the land be brought forward for development.

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MJC, in response:

- regarding the impact on views into the AONB, there are better policies to use if Members are minded to go down that route. GE2 is a negative policy and shouldn't be pursued. This land has already been allocated for development under the JCS and to use this policy would undermine the whole process at appeal;
- CP1, 3 and 4 have a better chance at appeal.

CHay: is not happy to drop the prematurity issue and method in place for determining Local Green Space. It is clear that there are a number of concerns about how LGS is determined. CBC has agreed that this land will be developed, but this proposal predetermines the JCS process and goes against government advice by seeking to determine one part of it. We need to wait and see what the Inspector will say about the JCS. Is loath to drop this as a refusal reason.

BF: on planning view, Members were shown enhanced photos of the site looking down from Leckhampton Hill, but none of what it will look like from Shurdington Road, looking into the site. Is keen that up-to-date policies – NPPF and pre-submission JCS – should be used; these are important.

GB: does CC want to encompass these extra refusal reasons, regardless of advice from officers?

CC: is looking to achieve a firm decision, and if it is to refuse, wants as many Members on board as possible – doesn't want Committee to be judge and jury. Maybe PB wants to remove his suggestion of GE2, but the other reasons seem strong and defensible and should be included. Knows what the answer is likely to be, but can't the refusal reasons be dealt with and voted on a point by point basis – to ensure as solid a refusal as possible?

GB: it would not be appropriate to take the vote on a point by point basis. If Members are disinclined to accept a particular refusal reason, they can vote to strike it out.

CH, in response:

- before the vote, it would be beneficial for Members to hear from members of the officer team with their expertise on the landscape impact and air quality.

WT, in response:

- Members seem to have two main points of concern regarding the landscape – the view from the hill and the view to the hill;
- Members should be aware that they are dealing with the site in draft plan and this must colour their thinking when making judgements;
- notes CC's comments' about the 'singularly unique' view – but all views are unique by their very nature;
- there is an intrinsic relationship between the built-up area of Cheltenham and the scarp. It would be impossible to build strategically in the town and not have some impact on the scarp. It can be viewed from many areas of the town, and as the town has developed, it has been impossible to avoid affecting it in some way;
- driving along Shurdington Road towards Cheltenham, there is a series of 'singularly unique' views to the scarp, interspersed with views of trees and houses, before opening up into an attractive view of the scarp at the point where development is proposed;
- this would alter with the development, but the masterplan is misleading – it looks like a large block of three-storey buildings but it is not – it is a series of buildings set back from the road, and this is conditioned in the Design and Access Statement;
- it's true that the extensive views enjoyed at the moment will go but it is important to see the impact in terms of the draft JCS. This site has been allocated for development, and the frontage is the least sensitive area;

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- officer recommendations have been based on balanced judgements of all elements. There will be a series of views where there is currently just one; other views won't change.

CC: in 2003, the planning Inspector cited this particular view as a significant reason for refusing development on this site.

WT, in response:

- the view hasn't changed but material considerations have – the nature the JCS and housing requirements.

PScott, in response:

- regarding air pollution issues, we have a statutory requirement as a council to monitor air quality across the borough. This is done monthly at 60 monitoring locations; where it fails national requirements, an air quality action plan is put in place. This has now been done, with a number of proposed measures which should improve air quality all over Cheltenham;
- regarding this, no locations will exceed national objectives for air quality. An environmental statement included in the officer report has nothing to say regarding a negative impact on air quality as a result of the proposed development, with no increase in exposure to pollutants for residents;
- consultants have been asked to set up an assessment at two locations on Shurdington Road, and their results demonstrate that the likely effects of air pollution at this location are negligible.

CH, in response:

- CC made reference earlier to the local centre and questioned whether there was really a need for this. The overall site area is below the requirement for an impact assessment, but the applicant has demonstrated that the development will create a need for additional facilities for the additional residents. The impact will be minimal on other retail locations in their area;
- so far, the policies Members are moving as refusal reasons are CP1, CP3, CP4, CP7, CO1 and TP1 in the Local Plan;
- it is up to Members whether they want to pursue prematurity of the JCS and LGS as refusal reasons.

CL, in response:

- if CC wants to put forward his original suggestions and these additions as refusal reasons, other Members can move to make amendments, add/remove words etc;
- the procedure for amendments to motions is that only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, although notice of further amendments may be given;
- if an amendment is not carried, other amendments to the original motion may be moved;
- suggests that CC puts forward all the refusal reasons he is prepared to move.

CC: would like to move to refuse on the policies he originally put forward, and is happy to include the reasons put forward by JF and BF. PB's suggestion of GE2 will be removed. If Members want to strike any of these reasons out, that is OK. Additional comments from AM and CH should also be included.

GB: the refusal reasons are therefore:

- **CP1, CP3, CP4 and CP7**
- **prematurity regarding the JCS and LGS application**
- **TP1**
- **NPPF Paragraphs 32, 105 and 109**

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- all policies mentioned by Lufton Associates in Paragraph 5 of their letter to Committee [NPPF Paragraphs 109 and 115, Local Policies CO1 and CO2, and Policies SD7 and SD8 of the emerging JCS]

This is a very comprehensive list.

MS: has listened intently to the debate, and from experience of 14 years on Planning Committee, fears that Members are straying into very, very dangerous territory regarding an appeal. Will have difficulty in supporting the move to refuse. Was happy to move to defer, which would have tested the moral fibre of the developers in coming back with a full application, but a refusal will place a great burden on officers. Members have already put their hands up for the JCS and thus for developing this land, and should exercise caution in where they go from here. Will not support the move to refuse.

GB: Members have given a great deal of thought and debate to this proposal, and with the time at 10.30, and if no other comments are coming forward, it is time to vote on CC's move to refuse.

Vote on CC's move to refuse on the above grounds

10 in support

2 in objection

1 abstention

REFUSE

GB: thanks to officers, Members, and everyone in the public gallery for their perseverance and good behaviour.

The meeting ended at 10.35pm