

Cheltenham Borough Council
Council – 25 February 2011

**Consideration of a petition requesting that land at Leckhampton
be protected from inappropriate large scale development.**

Accountable member	Leader
Accountable officer	Assistant Chief Executive
Accountable scrutiny committee	Environment
Ward(s) affected	Leckhampton Ward
Significant Decision	No
Executive summary	<p>A petition was received by the Council on 13 December 2010 requesting that the council considers designation of land in Leckhampton with a view to protecting it from inappropriate large scale development. The exact wording of the petition is set out in paragraph 2.1. As the petition had in excess of 750 signatures it is entitled to a debate at full Council.</p> <p>The council has an agreed process for dealing with petitions the detail of which is set out in paragraph 2.3. This report has been produced to enable members to consider the request of the petitioners. The council within its planning framework does have the opportunity to designate land as it feels appropriate and such designations are then tested through public consultation and wider stakeholder engagement and through public inquiry.</p> <p>The council is currently, through a partnership arrangement with Tewkesbury Borough Council and Gloucester City Council developing a Joint Core Strategy (JCS), and so any designation at this stage would be premature, but can be considered in developing strategic options.</p>
Recommendation	That Council requests officers to consider the issues raised by the petition as part of the developing options process for the Joint Core Strategy as set out in paragraphs 3.10 and 3.11 of this report.

<p>Financial implications</p>	<p>The council is facing an unprecedented period of financial constraint with a significant level of cuts in government support forecast over the next 4 years. The estimated revenue funding gap over the period of the MTFS (2012/13 – 2016/17) is £2.5m</p> <p>The council's resources for capital investment are also scarce and already committed. The council has significant aspirations for investment in its building and the town infrastructure for which funding sources have yet to be identified.</p> <p>As such, the council is unlikely to be in a position to contribute financially to either the set up costs or on-going running and maintenance costs of a country park.</p> <p>Contact officer: Mark Sheldon, Chief Finance Officer</p> <p>Mark.Sheldon@cheltenham.gov.uk, Tel 01242 264123</p>
<p>Legal implications</p>	<p>The petition must be considered in accordance with the Council's Petition Scheme made pursuant to the Local Democracy, Economic Development and Construction Act 2009. The petition will be considered in accordance with the Council Procedure Rules varied in so far as necessary to comply with the attached Process.</p> <p>The land at Leckhampton within Cheltenham Borough Council's boundaries is not designated for any development within the adopted local plan. The future planning status and policies for this land will be decided by the Joint Core Strategy process.</p> <p>The weight decision makers such as Council should attach to the Regional Spatial Strategy is set out in paragraphs 3.7 and 3.8 of this report.</p> <p>Section 7 of the Countryside Act 1968 gives the Council power to provide a country park. Where the land in question does not belong to the Council then the Council has the power to enter in to agreements with the landowner (including the payment of money) or compulsorily purchase the land. Compensation for compulsory purchase is payable and this is calculated as the amount which the land might be expected to realise if sold on the open market by a willing seller.</p> <p>In the Localism Bill there are provisions which allow community groups to nominate land to go on a Council's List of Assets of Community Value. If land is included on this list then owners of the land cannot sell the land without first allowing the community group to be treated as a potential bidder for the land. Compensation would have to be paid. This Bill has not yet received royal assent so these provisions could be amended or removed before then.</p> <p>Contact officer: Jonathan Noel, Solicitor jonathan.noel@tewkesbury.gov.uk 01242 775117</p>
<p>HR implications (including learning and organisational development)</p>	<p>None</p> <p>Contact officer: Amanda Attfield, AD HR and Organisation Development</p> <p>amanda.attfield@cheltenham.gov.uk, 01242 264186</p>

Key risks	Any risks associated with land use designations will be considered and recorded during the development of the JCS.
Corporate and community plan Implications	The JCS and development documents are the spatial interpretation of the community strategy and corporate plan outcomes.
Environmental and climate change implications	Any proposal for a county park would need to be considered within the Strategic Environmental Assessment undertaken to support the decision making of the Gloucester, Cheltenham & Tewkesbury Joint Core Strategy.

1. Background to the Petition Scheme

- 1.1** The petition provisions in the Local Democracy, Economic Development and Construction Act 2009 aim to address the perception nationally, as revealed in the results of the Place survey, that the community is unable to influence local decisions.
- 1.2** The Council's Petition Scheme (based on the national model scheme) is designed to ensure that the public has easy access to information about how to petition their local authority and they will know what to expect from their local authority in response. Included within the Scheme is the requirement to have a full Council debate should a certain number of signatures be achieved. Cheltenham Borough Council have set that threshold lower than that recommended by the legislation at 750 signatures.
- 1.3** The legislation also recommends a 15 minute maximum period for the debate and recognises that the issue may be referred to another committee where the matter is not one reserved for full Council. The purpose of the requirement for Council debate therefore, is not to ensure that the final decision relating to the petition issue is made at that Council meeting but to increase the transparency of the decision making process, ensuring that debates on significant petitions are publicised with sufficient notice to enable the petition organiser and public to attend. It also ensures that local people know that their views have been listened to and they have the opportunity to hear their local representative debate their concerns. The outcome of debates will depend on the subject matter of the petition.

2. The petition

- 2.1** The Mayor notified Council on 13 December 2010 that she had received a petition earlier that day from Kit Braunholtz, the chairman of the Leckhampton Green Land Action Group (LegLag). It had 2130 signatures which is in excess of the 750 signatures required to trigger a debate at Council. The wording of the petition is set out below:

"We the undersigned* urge the above Councils to allocate** a designated area to the South of Cheltenham (including the land formerly known as the Leckhampton White Land, Brizen Farm and Land West of Farm Lane) that shall be protected from inappropriate large scale development. This area of land is of high local community interest due its attractiveness, views in and out of the AONB and the contribution it makes to the setting of Cheltenham. We also highly value its easy accessibility for informal recreation, local food production, wildlife, environmental and ecological interest. We suggest that although parts of this area are in Shurdington, this designated land may for convenience (at the Councils' discretion) become known as: LECKHAMPTON COUNTRY PARK".

* All Signatories declare that they have not signed another copy of this petition

** In their Joint Core Strategy, Local Development Framework or another relevant appropriate

planning policy or document

2.2 Kit Braunholtz was nominated as the petition organiser.

2.3 The Council is therefore required to debate the petition in accordance with the Petitions Scheme approved by Council on the 13 May 2010. A process for dealing with petitions was produced by officers and is attached as Appendix 1 as a process to be followed for the debate at this meeting. This process includes the possible extension of the debate for longer than 15 minutes. The debate should conclude with one or more decisions taken pursuant to the Petition Scheme as follows

- taking the action requested in the petition (provided the matter is reserved to full Council for decision)
- referring the matter to Cabinet or an Appropriate Cabinet Member or Committee (including Overview and Scrutiny) for further consideration
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition
- taking no further action on the matter

3. Background information to the subject of the petition

3.1 The Council's Strategic Land Use Team has been working with LEGLAG for many years and has provided advice in respect of the future use of land at Leckhampton. A public meeting was held on 29th September 2010, organised by LEGLAG, which was attended by the council's Strategic Land Use Manager. At this meeting LEGLAG outlined the proposals for land at Leckhampton to be designated as a country park and sought public support for this. The meeting was well attended by the local community and supporters of the proposal.

3.2 At the meeting the Strategic Land Use Manager clearly set out that such a proposal would need to be considered in the context of the emerging Joint Core Strategy for Gloucester, Cheltenham and Tewkesbury.

3.3 The land proposed by LEGLAG falls outside the Principal Urban Area of Cheltenham, but is well related to the town. The area proposed falls across the administrative areas of both Cheltenham and Tewkesbury Borough Councils. The land relating to Cheltenham does not form part of the designation of the Area of outstanding Natural Beauty or form part of the green belt. Within the context of Cheltenham Borough Local Plan (2006) the area is unallocated.

3.4 LEGLAG are recognised as an important interest group within the Borough and have been engaged with JCS activities at key milestones that have included stakeholder consultation.

Consideration of the proposal in the context of the Regional Spatial Strategy for the South West

3.5 The area proposed for protection has been under pressure from development for many years; it has been subject to debate and consideration in the preparation and approval of the current and previous local plan/environs plan for Cheltenham and significantly debated in regards to the draft Regional Spatial Strategy for the South West (RSS).

3.6 The area was identified as a proposed urban extension for 1,300 dwellings in proposed changes to the RSS made by the Secretary of State in 2008.

- 3.7 Cheltenham Borough Council has consistently objected to the RSS and legal advice has been sought via the Council's legal team to determine the weight which decision makers such as Planning Committees and Council should attach to the RSS both in the light of the current case law and following the publication of the Localism Bill.
- 3.8 In respect of land proposed as an urban extension via the Secretary of State's Proposed Changes, the legal advice is that limited weight should be attached to the RSS. Whilst recent case law is relevant, the court decisions applied to an approved RSS. They have therefore limited relevance to the South West RSS as this has not been approved and is not part of the development plan. This site was inserted into the emerging RSS at proposed changes stage so it has not been subject to an examination in public in the context of being allocated as a proposed urban extension or been subject to a strategic environmental assessment. Consequently this further reduces the weight to attach to the emerging RSS. The legal advice may change if decisions are made in the courts which are relevant to this issue.

Consideration of the proposal in the context of the emerging Joint Core Strategy

- 3.9 The JCS Developing Options document will be considered by the Council at a meeting on 25 July 2011. Once agreed the JCS - Developing Options document will be published for a statutory period of six weeks for public consultation. This consultation document will set out an emerging spatial strategy for the JCS area and identify a number of broad locations that have the potential to contribute to delivering the strategy. This will provide members of the public and stakeholders the opportunity to make formal representations through the statutory development plan process on their preference for land allocations.
- 3.10 Following consultation on the Developing Options document and after considering the responses and the evidence presented, if it is considered appropriate to identify areas within the JCS area as protected from certain types of development, then this will be set out within the Preferred Options document due to be presented to Council in 2012. Until this time, special designation of the Leckhampton land, or in fact any other strategic location within the JCS area, is premature.
- 3.11 Key areas of work which will help inform considerations of the proposal for protection of the Leckhampton land within the emerging JCS Preferred Options document in 2012 include;
- Gloucestershire Landscape Character Appraisal – published http://www.cheltenham.gov.uk/site/scripts/documents_info.php?documentID=378&pageNumber=25
 - Developing the Spatial Options: consultation reports – published <http://www.gct-jcs.org/EvidenceBase/JCSDevelopingtheSpatialOptions.aspx>
 - JCS: Green Infrastructure Study – in preparation
 - JCS: Landscape Assessment – in preparation
 - JCS: Urban Definition Study – published <http://www.gct-jcs.org/EvidenceBase/UrbanExtensionDefinitionStudy.aspx>
 - Cheltenham Green Belt Review – published http://www.cheltenham.gov.uk/site/scripts/documents_info.php?documentID=378&pageNumber=22
 - JCS: Green Belt Review – currently in preparation
 - Strategic Flood Risk Assessment (1 & 2) – SFRA 1 published , <http://www.gloucestershire.gov.uk/index.cfm?Articleid=17247> ; SFRA in preparation
 - Gloucestershire Revised Housing and Employment Projections – currently in preparation
 - JCS Habitats Assessment – currently in preparation
 - Cheltenham Biodiversity Audit – published http://www.cheltenham.gov.uk/site/scripts/download_info.php?fileID=976
 - Cheltenham Green Space Strategy – published http://www.cheltenham.gov.uk/site/scripts/documents_info.php?documentID=612&pageNumber=4
 - JCS: Spatial options – currently in preparation
 - JCS: Comparative Site Assessment – currently in preparation
 - Cheltenham Strategic Housing Land Availability Assessment – published

http://www.cheltenham.gov.uk/site/scripts/documents_info.php?documentID=378&pageNumber=8 , to be reviewed 2011

- JCS: Broad locations/identification of options – in preparation
- Cheltenham Employment Land Review – published http://www.cheltenham.gov.uk/site/scripts/documents_info.php?documentID=378&pageNumber=21
- JCS: Employment Land Review – currently in preparation
- JCS: Strategic Environmental Assessment – in preparation
- Detailed proposal of Leckhampton Country Park – awaited from LEGLAG based on work being undertaken by Gloucestershire University

4. Other options

- 4.1 The Council does have the power under the Countryside Act 1968 to enter in to agreements with landowners or compulsorily purchase land for the purposes of providing a country park. However, this would require considerable up front investment and ongoing running costs and is unlikely to be financially viable in the context of the Council's current budget, commitments and aspirations and so is not a recommended option.
- 4.2 The Localism Bill includes provisions which allow community groups to nominate land to go on a Council's List of Assets of Community Value. If land is included on this list then owners of the land cannot sell the land without first allowing a community group to be treated as a potential bidder for the land. Compensation would have to be paid. The Bill, and these provisions, have yet to be enacted and so this is not an available option at this time.

5. Reasons for recommendations

- 5.1 To decide an appropriate course of action as required by the Petition Scheme.

Report author	Contact Officers: Tracey Crews, Strategic Land Use Manager Tracey.crews@cheltenham.gov.uk 01242 264382 Rosalind Reeves, Democratic Services Manager rosalind.reeves@cheltenham.gov.uk 01242 774937 Jonathan Noel, Solicitor jonathan.noel@tewkesbury.gov.uk
Appendices	1. Process for dealing with a petition at council
Background information	1. Council's petition scheme – report to Council 13 May 2010