

3 July 2025

Dear Councillor,

Outline planning permission (with all matters reserved except for access) for a severable and phased development to provide non-residential floorspace comprising flexible commercial and community uses (Use Classes E and F), mobility hubs, new homes (Use Class C3) and other associated infrastructure.

Ref: 23/01875/OUT: Representations on behalf of NEMA

- 1.0 I am writing on behalf of my client, NEMA Golden Valley Limited - the applicant for the adjacent development within the West Cheltenham JCS allocation (ref: 24/01268/OUT), following the publication of the Officer Report to Committee.
- 1.1 This letter, sent to all members of Committee (as well as all other Ward Councillors), sets out NEMA's position ahead of the Extraordinary Meeting on Friday 4 July 2025. Your officers have also been provided with a copy.
- 1.2 Firstly, I would like to state that this letter should not be seen as an objection to the proposed development. NEMA are fully supportive of the aims and aspirations behind the entire allocation, and throughout NEMA's involvement in the broader allocation, they have consistently acted in a constructive and positive manner.
- 1.3 However, in taking this approach, NEMA have also consistently advocated for a stronger legal framework to ensure the delivery of the necessary infrastructure to support the world class development that the allocation is striving to achieve.
- 1.4 We take this position not to be uncooperative, but to guard against uncertainty, and to ensure that the Council generate a suite of deliverable planning permissions that give clarity to all concerned. Unfortunately, having reviewed the officer report, NEMA feel compelled to raise our concerns in relation to deliverability.
- 1.5 *This project is almost certainly a once-in-a-generation development for the town - it is imperative that the council makes robust decisions which will stand the test of time.*
- 1.6 **Based on the evidence presented in the officer report, it is our considered view that this application has been presented to Committee prematurely, and that further time is necessary to deal with a series of unresolved matters which are currently within the recommendation.**
- 1.7 This letter seeks to ensure that members are fully informed when they discuss the application on Friday, and more importantly to ensure that there is a much stronger framework for infrastructure delivery.

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Infrastructure delivery

- 2.0 The officer report sets out a series of infrastructure requirements to be delivered by the HBD application, but also across the allocation. This letter will focus on the key areas where matters are not fully resolved. It will also discuss the implications of viability and deliverability.

SANG

- 2.1 The officer report highlights the use of Hill Farm as off-site SANG to compensate for the likely impact of development on the Cotswolds Beechwoods Special Area of Conservation (SAC). This off-site provision is proposed to deliver 20.48 hectares of SANG which will benefit both this application, and the development proposed on the northern parcel of Council-owned land (ref: 23/01874/OUT).
- 2.2 The Conservation of Habitats and Species Regulations 2017 places a duty on the Council, as competent authority, to make an appropriate assessment of the implications of the plan or project for the SAC in view of the SAC's conservation objectives. Following such an assessment, the Regulations confirm that the competent authority may agree to the plan only after having ascertained that it will not adversely affect the integrity of the SAC.
- 2.3 The concept of off-site provision is well-understood and NEMA do not dispute the suggested approach. However, the proposed SANG has yet to be formally secured.
- 2.4 The conversion will require the introduction of significant levels of hardstanding and reconfiguration to actively encourage public use, and the parking capacity to support the proposed SANG is also questionable, with the reconfiguration of existing car parks not informed by topographical surveys or arboricultural reports. In addition, although the submitted 'Outline SANG Habitat Creation and Management Plan' alludes to habitat survey work to support the proposals, there is no evidence of this on Public Access.
- 2.5 The Habitats Regulations require a precautionary approach to decision-making. Given the scale of the SANG, the movements associated with its creation, the need for operational development to deliver the footpath network, the ecological sensitivities of the area more generally, and the lack of certainty in relation to car parking provision and capacity, NEMA would question whether this proposal needs planning permission in its own right.
- 2.6 Accordingly, while the principle of off-site SANG may have been endorsed by Natural England, its delivery at this stage cannot be an absolute certainty.
- 2.7 On this basis, we would question whether the duty imposed by the Habitat Regulations is currently being effectively discharged by the LPA as competent authority. It is our view that the suggested Grampian condition is not sufficient in this regard – the establishment of the SANG needs greater certainty.
- 2.8 The deficiency in this approach calls into question the reasonableness of any decision to grant planning permission.

- 2.9 We also note that the provision of Hill Farm as off-site SANG is being factored into the viability assessment of the development proposal. We would caution against the potential of double-counting here.
- 2.10 SANG is a required mitigation of the proposed development which is not being fully provided on site because there is not sufficient space within the proposed layout. Accordingly, it should not be considered as an abnormal development cost. We would therefore encourage members to scrutinise this aspect more fully. We accept that full provision on site would likely drive down the Gross Development Value, but as it stands, we would query whether the off-site SANG provision is unintentionally impacting upon affordable housing delivery.

Odour

- 2.11 We recognise that odour represents a key constraint for the allocation. We also recognise and appreciate that the work to significantly reduce odour will be carried out by Severn Trent and that this cannot be fully secured through the planning system. However, this represents a risk to the delivery of the allocation.
- 2.12 The suggested Grampian condition will restrict residential occupancies on this site until the necessary mitigation work has been completed and validated. It is noted that a similar restriction would be placed on the NEMA proposals. However, the report also refers to potential restrictions on the St. Modwen application, as well as the HBD northern parcel. This is due to the provision of land to be used for the necessary Primary School, which currently falls within the identified 'odour zone'.
- 2.13 Members will be well aware that the St. Modwen application and the HBD northern parcel application are yet to be determined, and also remain subject to outstanding viability considerations. However, these restrictions relate to a fundamental piece of infrastructure for the allocation (new Primary School).
- 2.14 It is NEMA's position that the LPA need much greater certainty in relation to the deliverability of these odour works from Severn Trent. It is not enough to suggest that the work is '*highly likely*' to occur. Odour represents such a significant constraint to the allocation that it is directly identified within JCS Policy A7.
- 2.15 *As it stands, the LPA can have no guarantee that the required Primary School will be deliverable – this represents a fundamental weakness in the recommendation that has been presented.*

Viability and Deliverability

- 3.0 Members will note in the report that the HBD application has undergone a viability assessment which has seen the S106 contributions reprioritised in order to secure what is considered to be the optimum level of affordable housing. NEMA does not question this approach; this is standard practice for numerous major planning applications.
- 3.1 However, the HBD site sits within a broader allocation, one that brings with it significant shared infrastructure requirements. This infrastructure is being delivered

on different sites and by different means. For example, amongst other things, it is expected that the St. Modwen application delivers the necessary NHS provision, that Severn Trent deliver necessary odour mitigation, and that applications make fair and reasonable contributions towards a series of other infrastructure components.

- 3.2 As it stands, these components are being secured through a myriad of different S106 legal agreements, S278 agreements, and planning conditions, as well as developers essentially proposing to reimburse each other outside of the planning system. This presents a very tangled web through which to interpret the applications.
- 3.3 However, the St. Modwen application is currently subject to unresolved viability discussions with the LPA. Moreover, the HBD northern parcel of land is also subject to similar discussions. The NEMA application may also need to open up similar negotiations given the ongoing discussions in relation to access between my clients and HBD.
- 3.4 Given this scenario, how can the LPA be confident that the infrastructure requirements of the allocation, as reported, will be effectively delivered?
- 3.5 At the time of this Extraordinary Committee meeting, there is very little certainty across the allocation. We accept that there are 'clear intentions' from applicants, but much of these matters remain outstanding or unresolved.
- 3.6 Accordingly, until the legal framework for delivery is more comprehensive, does the Planning Committee genuinely have enough comfort to make a robust decision on an application that has such significance for the future of the town?
- 3.7 NEMA recognise the need for flexibility and pragmatism in how the requirements of Policy A7 are delivered. However, the infrastructure that is required by both this application, and the broader allocation, is currently being sought through a complex web of legal agreements and conditions. This brings with it clear risk to deliverability as well as question marks in relation to the reasonableness of subsequent decisions.
- 3.8 Without a legal framework or nexus between the major landowners delivering and contributing to the major infrastructure, including relevant third parties like Severn Trent, this complicated web lacks certainty for the LPA and therefore raises fundamental questions about deliverability across the allocation.
- 3.9 Given the scale and complexity of the development proposed, and the wider allocation in which the application site sits, the matters that remain unresolved should have much greater certainty attached to them.
- 3.10 Accordingly, Members are currently being asked to make a decision without any real degree of certainty regarding deliverability.

Summary

- 4.1 It is our position that the Committee needs a much fuller understanding of the legal framework that the LPA is working within, across the whole allocation, to ensure that they make robust and defensible decisions on each of the applications. It is only with this greater understanding that the Council's decision-making will deliver the clear Policy requirements of the JCS, specifically in Policy SA1 and A7.
- 4.2 We continue to strongly advocate for a more legible legal framework which considers the allocation as a whole, rather than a series of individual red-line boundaries. On this basis, we would urge Members to encourage their officers to pursue a broader umbrella S106 agreement which captures infrastructure provision across the whole allocation in a much stronger and clearer manner, rather than on a site-by-site basis.
- 4.3 Given the shortcomings of the delivery framework identified, we question whether this application has been brought to the Planning Committee prematurely?
- 4.4 In addition, given the landownership of the application site, we also question the nature of the recommendation.
- 4.5 **Members are reminded that this is a scenario where the Council are both landowner and decision maker. Accordingly, avoidance of scrutiny is not something that the Planning Committee should entertain.**
- 4.6 Planning Committee should have the final say on the content of the S106 agreements across the whole allocation when they are more fully resolved. Given the uncertainties we identify, this should not simply be left to officers to resolve.
- 4.7 We therefore strongly suggest that more time is given for discussions between officers and all developers within the allocation in relation to infrastructure provision and how this will be delivered practically. As it stands, too many strands of the required infrastructure remain unsatisfactorily resolved. Members should therefore not endorse the recommendation that has been presented to them.
- 4.8 Notwithstanding the above, if members are minded to support this application, then they should retain much greater scrutiny of the subsequent S106 agreement, not just on this application, but on all applications across the allocation.
- 4.9 Accordingly, subsequent legal agreements and conditions should be brought back to the Committee for formal endorsement in an open and transparent manner.

Yours sincerely



Martin Chandler **MRTPI**

SF Planning Limited on behalf of NEMA Golden Valley Limited