



REPRESENTATIONS TO THE WARWICK DISTRICT COUNCIL LOCAL PLAN PREFERRED OPTIONS (MAY 2012)

On behalf of
Old Milverton and Blackdown Joint Parish Council

Our Ref: 3623

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1.0 Introduction

This representation is submitted in response to the Warwick District Council Local Plan Preferred options (May 2012) consultation opened between 1st June 2012 and 27th July 2012, and subsequently extended until 3rd August 2012.

This representation focuses on the strategic housing allocations and associated major highway infrastructure of the preferred options document, with specific comments on the suggested Green Belt housing allocations to the north of Leamington Spa.

It will be demonstrated that the suggested development sites in the Green Belt to the north of Leamington are contrary to the National Planning Policy Framework (NPPF) and that there are no exceptional circumstances to alter the boundary of the Green Belt in this location, and furthermore no very special circumstances to allow development which would outweigh the harm caused by development in this part of the Green Belt. In this regard, reference is made to the Secretary of State's recent appeal decision concerning land at Hunting Butts, Cheltenham. The appeal was the first post NPPF appeal decision concerning housing development in the Green Belt.

Whilst demonstrating the unsuitability of Green Belt sites to the north of Leamington, this representation also highlights the availability of sequentially preferable alternative sites, which are not located within the designated Green Belt, and also how these sites could come forward at the required rate in a manner consistent with the social, economic and environmental objectives of the Core Strategy.

In addition, this representation should be read in conjunction with the submitted Landscape & Visual Appraisal prepared by Cooper Partnership. The Landscape Appraisal provides character analysis of sites both to the north and south of Leamington, and assesses the potential landscape impact of development on these sites. It concludes that development on land to the north of Milverton and at Blackdown as suggested by the preferred option would result in irreversible harm to the landscape character of the area. In addition, in assessing land to the south of Leamington, the landscape appraisal concludes that the landscape character here is less sensitive to change and therefore capable of accommodating

development, consistent with the findings of the February 2009 study titled 'Landscape Character Assessment for Land South of Warwick and Leamington'.

This representation concludes that the District Council needs to revert to the broad strategy set out in the previous Core Strategy Preferred options (June 2009), which identified appropriate strategic growth sites to the south of Leamington, therefore accommodating the strategic growth needs of the District without eroding the Green Belt. In addition, it is contended that there are additional non-Green Belt sites to the east of Leamington and the west/south of Warwick which have not been considered by the preferred option paper. Notwithstanding the availability of alternative sites, it is also noted that there has been no significant increase in the strategic housing requirement for the new local plan period from that put forward in the Core Strategy Preferred options to justify the release of Green Belt land for development.

In consideration of the findings of this report, there is absolutely no basis to justify development in the Green Belt to the north of Leamington as proposed in the preferred option local plan.

2.0 The Local Plan Preferred Option (May 2012)

The Local Plan Preferred option (May 2012) sets out the emerging development plan for Warwick District for the plan period 2011 – 2029.

The 'Preferred option' provides a comprehensive plan for growth covering social, economic and environmental issues including emerging development control policies for housing, employment, retail, town centres, transport, recreation, climate change, green infrastructure, tourism, flooding, and the natural, built and historic environments.

Overview of Housing sites to the north of Leamington

In indicating housing growth for Leamington, the preferred option plan identifies Green Belt land to the north of Leamington for housing development. The sites in question are land north of Milverton (SHLAA Ref: L07) and land at Blackdown (SHLAA Ref: L48).

Land North of Milverton

Land north of Milverton comprises approximately 83.3 hectares of Greenfield land. The entire site is located within the designated Green Belt. The sites boundaries are formed by Old Milverton Lane (partly known as Sandy Lane) to the north, open greenfield land to the west, Kenilworth Road to the east and the urban edge of Leamington to the south. The site provides an important role in terms of the landscape setting to urban Leamington. As discussed in detail below, the site also functions well in terms of the fundamental objectives of Green Belt land. The submitted Landscape Appraisal confirms the sensitive landscape character of the site.

SHLAA Analysis

The SHLAA analysis of the site highlights that development of the site would result in the loss of Grade 2 agricultural land and potentially compromise the setting of the Leamington Spa Conservation Area. It would also result in the loss of land which is considered of medium landscape value. Part of the site is also within a Water Source Protection Zone and a public footpath runs east – west across the centre of the site. The SHLAA highlighted that development of the site would require significant infrastructure improvements including transport, education, health, parks and open spaces, and may therefore require additional third

party land. The substantial shortcomings of the site in this regard are demonstrated by virtue of the major provision for new roads as illustrated on Map 5 of the preferred option paper. In addition, the SHLAA identified the lack of employment opportunities in the immediate vicinity and thus there would be a need/pressure for new employment land to be identified and developed to the north of Leamington in order to enable people to live and work in close proximity. Therefore, notwithstanding its Green Belt status, the suitability, sustainability and indeed deliverability of land north of Milverton for housing development is questionable.

Land at Blackdown

Land at Blackdown comprises approximately 66.7 hectares of Greenfield land. The entire site is located within the designated Green Belt. The sites boundaries are formed by Westhill Road to the north, dispersed settlement of Blackdown Parish to the west, and the urban edge of Leamington to the east and south. The site provides an important role in terms of the landscape setting to Blackdown Parish and urban Leamington. Moreover, the SHLAA confirms that it is of high landscape value (also confirmed by the submitted Landscape Appraisal). The site functions well in terms of the fundamental objectives of Green Belt land, a matter discussed in further detail below.

SHLAA Assessment

The SHLAA assessment of the site highlights that development of the site would result in the loss of Grade 2 agricultural land and that the site is within a Water Sources Protection Zone. Similar to land north of Milverton, the site will require significant infrastructure investment towards transport, education, recreation, health and open space. Furthermore, there is an evident lack of local employment land and therefore the provision/pressure for new employment land in the Green Belt is inevitable (if housing is allocated here). Therefore, notwithstanding its Green Belt status, the sustainability, suitability and deliverability of land at Blackdown for housing development is questionable.

3.0 Green Belt Planning Policy

With regard to the Green Belt status of the preferred option sites to the north of Leamington, this section examines the most pertinent planning policy with regard to Green Belt land.

The Preferred option Local Plan (May 2012)

Notwithstanding the proposed allocations within the Green Belt to the north of Leamington as put forward in the preferred option, the emerging plan also contains planning policy with regard to Green Belt land.

Chapter 16 of the preferred option plan relates to Green Belt. At paragraph 16.1 it states that the Warwickshire Green Belt **“seeks to prevent urban sprawl that would prejudice the open nature and rural character of the open countryside between Warwick/Leamington Spa, Kenilworth and the urban areas of the West Midlands conurbation including Coventry and Solihull.”** The allocation of Green Belt land for 1980 dwellings to the north of Leamington clearly compromises the basic function of the Green Belt in this location which is to prevent urban sprawl that would prejudice the open nature and rural character of the open countryside between Leamington and Kenilworth. As such, there is a clear conflict between the emerging local plan’s definition/objective of Green Belt land and its proposed allocations for major development within the Green Belt.

At 6.13 of the preferred option plan, it is recognised that Green Belt boundaries should only be altered in exceptional circumstances, and any alterations to Green Belt boundaries should have regard to their intended permanence in the long term. In this context, as demonstrated below with regard to the NPPF, the Green Belt to the north of Leamington is performing well in its designated purpose and should therefore be maintained in the emerging local plan, especially given the availability of alternative sites outside of the Green Belt which can accommodate the proposed level of housing development suggested for north Leamington.

At 6.14 of the preferred option plan it is stated that the Council’s preferred option for sustainable development

is to review Green Belt boundaries and therefore accommodate development within the currently designated Green Belt. However, crucially the preferred option plan fails to demonstrate or substantiate any ‘exceptional circumstances’ to justify why the Green Belt boundary to the north of Leamington must be altered. At 6.18, the preferred option plan claims that the justification is set out in the housing section of the emerging plan (part 2). However, part 2 of the plan fails to demonstrate exceptional circumstances and merely sets out an objective to distribute growth across the District. Such justification does not amount to exceptional circumstances.

It is contended that there is a further contradiction in the preferred options plan with emerging policy PO3: Broad Locations of Growth. The policy sets out the preferred option including;

“avoid development in locations which could potentially lead to the coalescence of settlements.”

The preferred option for strategic housing growth in the Green Belt to the north of Leamington flies in the face of this objective as it will result in the coalescence of Blackdown Parish into urban Leamington and increase the probability of coalescence between Kenilworth and Leamington by reducing the strategic gap and defensible boundaries between the two settlements.

At paragraph 7.17 of the preferred option, the plan is dismissive of an alternative option to accommodate development outside of the Green Belt, including to the south of Leamington as this option would lead to a concentration of development and not provide for the needs of Kenilworth or villages within the Green Belt. However, such justification appears to wholly ignore the original purpose for designating the Green Belt; that is to prevent development such as that now being put forward at Milverton and Blackdown in the preferred option. In this context, the preferred option therefore appears ignorant to the objectives of the Green Belt designation. Furthermore, the concentration of growth in certain locations is not unsustainable. On the contrary

for example, the south of Leamington currently provides a large amount of employment land and has better infrastructure and accessibility to the town centre than north Leamington.

As highlighted above, the SHLAA assessment of the preferred option housing sites to the north of Leamington will result in pressures for further Green Belt land to be released for employment development (further undermining the purpose and function of the Green Belt) in order for people to live and work in close proximity. In addition, the SHLAA assessment highlights significant shortcomings in infrastructure to the north in order to cater for the proposed housing development. The highway infrastructure is particularly poor as confirmed by the proposals on Map 5 of the preferred option paper which illustrates the need for major new roads to serve the proposed development. Such infrastructure is also harmful to the openness of the Green Belt and does not enhance the sustainability of north Leamington given the existing concentration of employment land to the south of the town. In this context, the justification for dismissing alternative options provided at paragraph 7.17 of the preferred option plan is unsound and contradictory with paragraph 7.19 with regard to sustainability, which states;

“The sustainability appraisal of the options showed that the option for focusing development outside the Green Belt had clear advantages associated with the provision of sustainable transport options and reducing need to travel”.

Whilst paragraph 7.19 continues, “however, there would be significant impacts on the natural and historic environment due to such a high concentration of new development to the south of the towns with increased cross-town traffic”, there is a lack of robust evidence to support this suggestion. Furthermore, it does not give due consideration to what are ‘exceptional circumstances’ for altering the Green Belt, nor does it take account of the significant impacts of development to the north of Leamington with regard to the natural and historic environment (as highlighted by the SHLAA). In addition, with the existing large proportion of employment land to the south of the town, residential development to the north will result in significant cross-town commuting and traffic. As such, it is contended that the preferred option is again self-contradictory in its planning objectives and site allocations. The SHLAA analysis of land at Blackdown and land north of Milverton confirmed that in seeking the

objective for sustainable development, there will be a requirement for additional Green Belt land to be released for employment purposes in these location (if housing is allocated there) in order to ensure people and live and work in close proximity. Employment development by its nature is usually more bulky and larger in scale than residential development, therefore having an even greater impact on the openness of the Green Belt. The inevitable pressure for such development at north Leamington, as a direct result of the proposed housing allocations, does not appear to be a consideration in the preferred options proposals. It is therefore contended that the preferred option justification for dismissing land to the south of Leamington and identifying housing growth to the north is wholly unsound and inconsistent with the principles of sustainable development.

Paragraphs 7.24 – 7.37 seek to provide the justification for the preferred option. Whilst it is recognised that exceptional circumstances are required and the need to accommodate the housing needs of the district can contribute to such circumstances, it is contended that such justification can only stand-up to scrutiny where it can be demonstrated that there are no alternative sites available. In this case, as demonstrated by this report, there are clear alternative sites available outside of the Green Belt. Specific alternative sites are discussed in further detail below.

The preferred option plan highlights that it is necessary to assess the Green Belt in terms of its contribution towards the 5 five purposes of Green Belt as set out in NPPF. However, the preferred option fails to provide any clear or detailed assessment of the 5 purposes in considering land north of Milverton and land at Blackdown. Such an assessment is provided below, where it is concluded that the Green Belt to the north of Leamington successfully functions 4 out of 5 purposes of Green Belt.

Without reference to a robust evidence base, the preferred option seeks to set out the Council’s concerns with focusing growth to the south of Leamington. As highlighted above, the concerns with concentrating growth at south Leamington appear contrary to some of the plans objectives for sustainable development and also contrary to the findings of the SHLAA. For example, at paragraph 7.30, the Council’s concerns are listed, including the increased car journeys between the Europa Way area, the town centre and the M40. This clearly contradicts with paragraph 7.19 (highlighted

above) which stated 'sustainable transport options and reducing need to travel' was a clear advantage for focusing development outside of the Green Belt.

Another concern with concentrating growth in the south highlighted at paragraph 7.30 is the southerly spread of development and the impact of closing the gap between Warwick/Whitnash and Bishop's Tachbrook. However, there is no Green Belt designation in this location to the south of Warwick to suggest such closing of the gap would be un-sustainable or un-acceptable in planning terms.

The final concern with concentrating growth in the south (at paragraph 7.30) is uncertainty over the market to deliver the level of growth required in a concentrated area. The preferred option provides no evidence to support this claim. Furthermore, it is prudent to note the plan period to 2029, some 15 years if one assumes a start in 2014. If the preferred option allocations at Milverton and Blackdown were relocated to the south, the resultant requirement is approximately 255 market units per year in the south of Leamington. It is contended that the market can comfortably deliver this requirement. A market opinion in this regard from agents Hunter Page Estates is attached at **Appendix 1**.

Therefore, the concerns for concentrating development in the south demonstrate inconsistencies in the plan's own objectives and lack robust justification for allocating circa 2000 dwellings in the Green Belt. In consideration of the above observations, it is contended that the Preferred Option Local Plan is unsound in its current form. This is further demonstrated below with regard to NPPF. The preferred option contains numerous inconsistencies between its policy objectives and its allocations.

National Planning Policy Framework (NPPF)

The NPPF was published in March 2012 and sets out the Coalition Government's up-to-date national planning policy.

The NPPF (at paragraph 7) identifies sustainable development as comprising three dimensions as follows;

- An economic role – contributing to building a strong, responsive and competitive economy by ensuring sufficient land of the right type is available in the right places and at the right time.
- A social role – requires supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and

future generations, high quality environments and accessible services and health, social and cultural well being.

- An environmental role – requires contributing to protecting and enhancing the natural, built and historic environment.

Whilst the preferred option local plan seeks to achieve each of the three dimensions of sustainable development as defined by NPPF, the allocation of major urban extensions and associated new roads in the Green Belt to the north of Leamington is not the most sustainable option for the District when less environmentally sensitive alternative sites are available, and furthermore located where the economic and social objectives are more easily achieved. Specifically, land to the south of Leamington is more accessible to local social infrastructure and employment opportunities, whereas there are significant shortcomings at Milverton and Blackdown as confirmed by the Council's own evidence base.

One of the 'Core Planning Principles' of NPPF is to take account of the different roles and character of different areas and the protection of Green Belt (paragraph 17).

At the outset of section 9: Protecting Green Belt land, the Government's message is clear.

"The Government attaches great importance to Green Belts. The fundamental of Green Belt is to prevent urban sprawl by keeping land permanently open."

The Green Belt land to the north of Leamington functions in accordance with Government's objective and therefore should be maintained as open Green Belt land in perpetuity, especially considering that there are alternative sites outside of the Green Belt which are available, suitable and deliverable for the scale of development required.

At **paragraph 79**, the NPPF confirms the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The preferred option allocations north of Milverton and at Blackdown (and the associated major highway infrastructure) severely conflict with the Green Belt designation in this area and would undermine the basic function of the Green Belt between Leamington/Warwick and Kenilworth.

Paragraph 80 of NPPF identifies five purposes of Green Belt as being:

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns from merging into one another;
- To assist safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Taking each of the criteria above to assess the performance of the preferred option sites for land north of Milverton and land at Blackdown, the sites are considered to function well with regard to four out of the five purposes.

- The Green Belt designation to north of Milverton and covering Blackdown carries out an important function by preventing the unrestricted urban sprawl of Leamington to the north.
- The Green Belt designation to north of Milverton and covering Blackdown carries out an important function by preventing the merging of Leamington with Kenilworth, and prevents the rural settlement of Blackdown Parish being swallowed up into urban Leamington.
- The Green Belt designation to north of Milverton and covering Blackdown carries out an important function by assisting in safeguarding the rural countryside to the north of Leamington and Warwick from encroachment.
- The Green Belt designation to the north of Milverton and covering Blackdown provides an important function by ensuring the setting and special character of Leamington is preserved.
- Whilst it is recognised that there is insufficient derelict urban land to accommodate the strategic growth requirements for the emerging local plan, there are sequentially preferable greenfield sites available, and thus the retention of the Green Belt to the north of Milverton and at Blackdown, will assist to ensure the regeneration of the existing urban area and the alternative growth sites in due course.

Paragraph 83 of the NPPF states that Green Belt boundaries should only be altered **in exceptional circumstances**. As highlighted above, given the availability of alternative sites, there are no exceptional circumstances which outweigh the harm caused by altering the Green Belt to the north of Leamington and allocating development there.

Furthermore **paragraph 87** of the NPPF states;

“As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

When considering proposals for development in the Green Belt, paragraph 88 of NPPF provides the following guidance;

“local authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstance’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations”

Whilst recognising the need for housing growth, and even if one assumed that the preferred options sites in north Leamington were equal in sustainability terms to the alternatives sites available at south Leamington (the reality being that sites to the south of Leamington are considered more sustainable due to accessibility and existing employment provision), it remains that there are no very special circumstances to clearly out-weigh the harm and loss of the Green Belt that would be resultant of development to the north of Leamington. In this context, and in consideration of the above assessment, the preferred option Local Plan proposals are contrary to the NPPF.

The Joint Green Belt Study

At paragraph 7.15 of the preferred option plan it is stated that the Joint Green Belt Study showed ‘*variations in the quality of land in the Green Belt and therefore some areas around the towns may be considered for development and therefore, removed from the Green Belt*’. It is fundamental to note that Green Belt is not a designation for landscape ‘quality’ but rather a functional planning designation for the purposes set out in the NPPF. Notwithstanding that, it is contended that the methodology and the scoring

system of the Green Belt Study is not consistent with the up-to-date guidance set out in NPPF. The NPPF is clear with regard to the purposes of Green Belt and the sites 'quality' or performance should be assessed against these purposes. The Joint Green Belt study does not have regard to the NPPF and therefore the appropriateness of the preferred option local plan's reliance upon the study is questionable.

Notwithstanding the above, the matter of landscape character and quality is an important consideration and is addressed by the Cooper Partnership Landscape Appraisal.

Post NPPF Green Belt Appeal Case

A recent appeal case concerning land at Hunting Butts Farm in Cheltenham helps to provide clarity on the interpretation of NPPF in relation to Green Belt and 'very special circumstances' whereby Green Belt land can be released for development. A copy of the appeal decision is attached at **Appendix 2**.

In summary, despite Cheltenham Borough Council having a chronic housing shortage and it also being inevitable that the emerging Core Strategy would need to direct new growth into the Green Belt and/or the AONB as the town is heavily constrained on all sides by such designations (unlike Leamington/Warwick where alternative 'white land' is available to the south, east and west), and the appeal site in question being sustainably located with ease of access to the town centre and employment opportunities, the Inspector still concluded that there were no very special circumstances to justify the release of Green Belt land for development. In arriving at his decision, the Inspector considered how the site performed with regard to the five purposes of Green Belt as set out in NPPF.

Paragraph 10 of the Inspector's decision re-affirms the guidance of paragraph 79 of the NPPF with regard to the importance of Green Belt and the fundamental aim of Green Belt designations, and that the essential character of Green Belts is their openness and permanence.

At paragraph 18 of his decision letter the Inspector comments;

"notwithstanding that the development would be visually contained by Hunting Butts ridge it would clearly extend the built form of the town into the defined Green Belt. In doing so it is my view that

it would not only compromise the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open but it would also lead to a weakened and less well defined boundary to the Green Belt."

In considering the issue of development contributing to the merging of settlements (Cheltenham and Bishop's Cleeve to the north) the Inspector comments (paragraph 22);

"The reality is that the proposed development would extend the built form of Cheltenham to the north and would clearly be visible from Swindon Lane – as well as from other areas further back within the settlement. In consequence its presence would be well known to local residents and despite it being hidden in views from Bishop's Cleeve by the ridge line it would nevertheless be obvious to local residents that the separation of the settlements has been reduced."

With regard to the Green Belt purpose of safeguarding countryside the Inspector states (paragraph 25);

"In any event, the appeal site is in the Green Belt and outside of the residential areas and should be regarded as countryside. Consequently, even if the visual impact of development were to be contained by the topography – and whilst also acknowledging that the built form would occupy only some 6.8ha of the total site – the proposed development would still represent a significant encroachment into the countryside."

At paragraphs 74-76 of his decision letter, the Inspector considers whether harm to the Greenbelt would be clearly outweighed by other considerations (as required by NPPF) and concludes;

"The proposal would constitute inappropriate development, harmful to the Green Belt. The presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also significantly reduce the openness of the Green Belt when the most important attributes of Green Belts are their openness and permanence. The NPPF makes it clear that substantial weight should be given to any harm to the Green Belt."

In addition, of the five purposes of including land

within the Green Belt the proposed development would materially offend four. Firstly, not only would the development compromise the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open but it would also result in a weakened and less defined boundary to the Green Belt. This could make it more difficult for the Council to resist further Green Belt incursions.

Secondly the proposal would be contrary to the Green Belt purpose of preventing neighbouring towns from merging into one another. I consider this of particular importance as the Green Belt between Cheltenham and Bishop's Cleeve is especially valuable in this respect - whilst also being somewhat vulnerable. Thirdly, the development would conflict with the Green Belt purpose of safeguarding the countryside and would represent a significant encroachment into it. Fourthly, the development would compromise the Green Belt's purpose to preserve the setting of and special character of historic towns, in this case Cheltenham. I do not, however, see the fifth purpose of Green Belts (to assist in urban regeneration) as being materially compromised by the proposal."

In concluding the principal issue of Green Belt, at paragraphs 80-81 of his decision letter the Inspector states;

"I consider that the harms to the Green Belt and its purposes are very real and substantial and development of the appeal site raises particular issues in respect of the Green Belt purposes of preventing the merger of settlements and preserving the setting of historic towns. The harm to the Green Belt is added to by the harm to the character and appearance of the area. Balanced against those harms are the provision of housing and affordable housing on the site and some additional benefits in terms of sustainability, design, landscaping and accessibility.

Seen as a whole, and despite attributing significant weight to the housing benefits, it is my judgement that the totality of the harm is not clearly outweighed by the other considerations. Consequently the very special circumstances

necessary to justify the development do not exist and the proposed development would be contrary to LP Policy CO6 and the NPPF."

The Hunting Butts appeal decision provides the first post NPPF test case for considering development proposals in the Green Belt. As set out above, the Inspector's decision demonstrates the importance of protecting Green Belts and the Secretary of State's interpretation and application of the NPPF in this regard. The Inspector is unequivocal in his conclusions that the benefits of the proposed development, including benefits relating to housing delivery, sustainability, design, landscaping and accessibility do not amount to very special circumstances.

In consideration of the above, the preferred option local plan does not comply with the Secretary of State's emphasis on the importance of Green Belt as required by the NPPF. Furthermore, the preferred option local plan lacks an evidence base in relation to the 5 purposes of Green Belt and fails to correctly weigh these considerations in arriving at its suggested allocations. On the basis of the Hunting Butts decision, it is contended that the preferred option is un-sound and vulnerable to challenge in its current form.

4.0 Alternative housing sites available

As highlighted above, it is contended that there are sequentially preferable alternative sites available to deliver the proposed level of housing for land north of Milverton and land at Blackdown as suggested in the preferred option local plan.

Specifically, it is obvious that land to the south of Leamington is not located within the designated Green Belt, nor is it within any nationally designated area for landscape or environmental protection. Furthermore, land to the south of Leamington benefits from existing infrastructure, ease of access to the town centre and close proximity to employment land. As such, land to the south of Leamington is considered inherently more sustainable than Green Belt land to the north of the town which is without any suitable infrastructure or sufficient employment land in close proximity. Such matters are confirmed by the Council's own evidence. On the contrary, the proposed Green Belt allocations to the north of Leamington are without justification or robust evidence to demonstrate exceptional circumstances to alter the Green Belt boundary.

With regard to the availability of land to the south, Lower Heathcote Farm and adjoining land was assessed in SHLAA (REF W07). The assessment concluded that the site was partly brownfield land and had no insurmountable development constraints. Development of the site would also provide an opportunity for environmental enhancement through the remediation of part of the site containing a former sewage works and former landfill. The SHLAA suggested that the Lower Heathcote Farm has capacity for up to 3,072, so it can comfortably accommodate the preferred options proposal for 1980 dwellings in the Green Belt at land north of Milverton and land at Blackdown.

Lower Heathcote Farm is currently being promoted by Gallaghers demonstrating the availability, suitability and deliverability of the land. Furthermore, the market opinion at **Appendix 1** confirms that the south Leamington market can deliver the annual requirement of dwellings across the plan period. The preferred option local plan's assertions otherwise appear to be unfounded with no direct evidence base.

Whilst it is recognised that if Lower Heathcote Farm was to come forward and therefore growth was concentrated in south Leamington, some infrastructural improvements are required in relation to highway capacity and the provision of a new school, the collective growth sites including Lower Heathcote Farm can deliver such enhancements and provisions. There appears to be no robust evidence base, such as traffic and highway surveys, to support any suggestion that there are insurmountable deficiencies with south Leamington to accommodate an additional 1980 dwellings.

Lower Heathcote Farm and the concentration of growth at south Leamington was identified in the previous Core Strategy Preferred Option (now abandoned). Furthermore, the Core Strategy Preferred Option maintained and protected the Green Belt to the north of Leamington with no allocations such as those now proposed in the preferred option local plan. Without any apparent or relevant justification, the emerging local plan has abandoned the spatial vision of the Core Strategy and now seeks substantial development in the Green Belt.

Whilst the Core Strategy was prepared in the context of the emerging RSS and subsequently abandoned, the spatial planning considerations and planning constraints of Leamington/Warwick have not changed. Moreover, the strategic growth requirement remains similar. Under the draft RSS, the Core Strategy Preferred Option was seeking to direct some 10,800 dwellings for the plan period 2006-2026. Based on the evidence of the Strategic Housing Market Assessment (SHMA), the current preferred option local plan is seeking to direct 10,800 dwellings in the District for the plan period 2011-2029. As such, notwithstanding minor variations which can be deduced from a desire to reduce densities and/or market conditions, there has been no significant increase in the number of dwellings required across the plan period. The sites put forward in the core strategy preferred options can therefore support the growth requirement now sought in the preferred option local plan. As such, there appears no reasoned justification for abandoning the locational growth strategy indicated in the core strategy preferred options, in favour of the now proposed preferred option local plan which includes the substantial erosion and irreversible loss of Green Belt land.

In addition to land at south Leamington, it is contended that there are other sites on the eastern and western sides of the settlement which have not been properly assessed or considered in the Preferred Option. A further examination of alternative sites needs to be undertaken in this regard to ensure that the exploration of all potential and sequentially preferable (non-Greenbelt) growth options have been exhausted before major development in the Greenbelt is considered further. The Local Plan Preferred Option fails to demonstrate such a comprehensive assessment of alternative sites. Such an assessment would assist in seeking to satisfy the apparent the preferred option objective for spreading growth across the district.

5.0 Conclusions & Recommendations

This representation is submitted on behalf of Old Milverton and Blackdown Joint Parish Council in response to the Warwick District Council Local Plan Preferred options (May 2012) consultation opened between 1st June 2012 and 27th July 2012, and subsequently extended until 3rd August 2012.

It has been demonstrated that the suggested development sites in the Green Belt to the north of Leamington are contrary to the National Planning Policy Framework (NPPF).

Specifically, it has been demonstrated that there are no exceptional circumstances (as required by NPPF) to alter the boundary of the Green Belt to the north of Leamington.

It has also been demonstrated that there are no very special circumstances (as required by NPPF) to allow development which would outweigh the harm caused by development in this part of the Green Belt.

These conclusions have been arrived at with regard to the NPPF and the Secretary of State's decision concerning the recent test case Green Belt appeal at Hunting Butts Farm, Cheltenham. Notwithstanding the context for that appeal where the LPA had a chronic housing shortage, the appeal site was sustainably located and visually contained by a prominent ridgeline, the Inspector concluded there was no justification for the loss of Green Belt given the importance attached to the protection of Green Belt land and that the appeal site conducted four out of the five purposes of Green Belt. The Green Belt sites to the north of Leamington are identical to the Hunting Butts case in that regard.

The Green Belt to the north of Leamington successfully carries out four of the five purposes for designating Green Belts and should therefore be maintained in perpetuity. This contention is reinforced by the obvious availability of sequentially preferable alternative sites to the south of Leamington.

The preferred option housing growth allocation for 1980 dwellings on land North of Milverton and land at Blackdown can be comfortably accommodated on land under promotion to the south of Leamington, namely Lower Heathcote Farm and adjoining land.

That site is available, suitable and deliverable within the plan period and sequentially preferable to Green Belt land. Furthermore, it is considered to be inherently more sustainable than Green Belt land to the north of Leamington given its ease of access to the town centre and local employment opportunities.

Market analysis demonstrates that the area to the south of Leamington/Warwick can deliver the annual requirement across the plan period if development growth is concentrated here. The preferred options suggestion that a disbursement strategy is required in order for the market to deliver housing at the required rate across the plan period is unfounded.

Notwithstanding that, it is also contended that there are other sequentially preferable non-Greenbelt sites to the east and west of the settlement which have not been properly explored and assessed in the preferred option local plan and further work is required in this regard. As such, even if Lower Heathcote Farm was considered to not have sufficient capacity for 1980 dwellings and/or concerns with the concentration of growth at south Leamington remained following further evidence gathering, there are still alternative sites to be considered without compromising the Green Belt between Leamington/Warwick and Kenilworth.

In addition to the above, notwithstanding the purposes of Green Belt, the accompanying Landscape Appraisal prepared by Cooper Partnership highlights the irreversible harm to the landscape character that would result from development at land north of Milverton and land at Blackdown. The Landscape Appraisal also demonstrates that land to the south of Leamington is sequentially preferable with regard to landscape and visual impact of development. In this context, it is prudent to note that the masterplan being promoted at Lower Heathcote Farm illustrates a large green buffer comprising parks, gardens and open space to the south of the development areas. Such a buffer will provide a robust defensive boundary and appropriate transition between development and the rural countryside to the south.

In consideration of the above, the preferred options should revert to the distribution strategy indicated in the previous Core Strategy Preferred Options. The Core

Strategy Preferred Option was directing an identical amount of housing growth and illustrated a concentration to the south of Leamington and protection of the Green Belt to the north of the town. There is no logical reasoning, or change of circumstances such as planning policy, to justify the radical change to the spatial strategy currently proposed by the preferred option local plan.

In its current form, the preferred option local plan is vulnerable to challenge and contrary to NPPF by altering the Green Belt boundary without demonstrating exceptional circumstances. Furthermore, there is no suggestion of being able to demonstrate very special circumstances to allow development in the currently designated Green Belt, a matter confirmed by reference to the Hunting Butts appeal decision.

It is therefore recommended that the Green Belt to the north of Leamington be un-altered and retained. The preferred options allocations at land North of Milverton and land at Blackdown should be deleted from the local plan with housing development redistributed to sequentially preferable locations.

Appendix 1

Market Opinion from Hunter Page Estates

In support of Land at Lower Heathcote, Leamington Spa – Marketing Report

Experience

This report has been prepared by Robert Dalton-Morris, managing director of Hunter Page Estates. I have 24 years experience of land and new homes agency in the western region, stretching from Birmingham to Exeter across to Oxford.

Prior to establishing Hunter Page Estates based in Cheltenham in 2004, I was development director for Hamptons International responsible for land and new homes sales in Worcestershire, Gloucestershire and Wiltshire.

Since 2004 Hunter Page Estates has advised on the sale of over 80 residential sites with total permissions amounting to 4,100 plots. Most recently in the two years, mid 2010 to 2012 Hunter Page Estates has sold or acquired on behalf of clients 21 major housing sites.

Background

Leamington Spa is a popular town in central Warwickshire and benefits from a range of major shops and other services including good schools. In addition to serving the immediate employers of the town and adjoining Warwick, new homes at Leamington are in demand from the wider South Midlands catchment. Junctions 13, 14 and 15 of the M40 Motorway are located 3 miles to the south of the town centre providing access in the direction of Birmingham (29 miles) and Oxford (48 miles)

The Lower Heathcote site is located on the southern edge of Leamington and is currently being promoted with a suggested capacity of up to 2,500 dwellings of which 40% (up to 1000 dwellings) will be affordable units.

Additional sites for new homes to the south are being promoted to the west and east of Lower Heathcote and we are informed that the combined southern Leamington sites could total 6390 dwellings. Of these 60% will be for open market sale (the remaining 40% being built as affordable housing under contract) i.e. 3834 units for sale.

The plan period is up to 2029 and assuming a start in 2014 this results in 15 years of Land at Lower Heathcote Leamington marketing report.docdevelopment. 3834 dwellings will therefore need to be sold on average over 15 years at a rate of 255 units per year.

Hunter Page Estates have been asked to comment on the marketability of the proposed new homes under current market conditions; and so the saleability of the land should planning permission be secured.

Residential Land and New Homes Market in Mid 2012

The housing market in Warwickshire has recovered in line with much of the southern half of the UK following the banking crisis in 2008. The ability of house builders to buy sites, develop and sell new homes was severely restricted by the lack of funding in 2009 however improved confidence and renewed banking arrangements have seen the recovery in the past 24-36 months.

Demand for new housing in Warwickshire is strongest in the middle market/family housing sector where second time buyers and older purchasers benefit from equity they hold in their existing property. House builders are especially keen to acquire sites that satisfy this market.

Increasing confidence in property as opposed to equity markets and shifting evidence towards renting as opposed to owner occupation led to an increase in the demand for smaller property since mid 2011 and a re-emergence of the buy to let market driven by cash buyers.

The major national and regional house builders have significant funds to purchase land with planning permission and are looking to develop out sites quickly with average target sales rate of 0.75 dwellings per week (3 sales every 4 weeks). Demand is greatest for stand alone sites where there is no competition with other house builders on the same site however all of the national volume house builders have business plans based on competitive marketing strategies, pulling buyers to major development areas with not only housing but new infrastructure and services.

New Homes Market in Leamington Spa

There has been limited major new homes development in and around Leamington Spa in the past five years due to planning policies of restraint. Major sites in the region have focused on Coventry to the north and a number of brownfield high density, more specialist flatted and town house scheme. As such there will be pent up demand on top of the expected strong pull to this popular centre.

Demand is expected to be strong both north and south of the town with the advantage of southern sites being the proximity to the M40 as well as easy access to the town centre.

Marketing Benefits of the Lower Heathcote Site

The subject site will offer the following advantages to a house builder:

- Plentiful land supply to enable volume sales.
- Proven demand for housing in Leamington Spa for both locally based purchasers and also relocators.
- Proven demand for new homes in M40 corridor with access between Birmingham and Oxford.
- Proposed masterplans matches greatest current demand for in particular family housing.
- Prices in the range 210-240 per sq ft are anticipated subject to dwelling type (flat/house, 2 or 3 storey)

Conclusion

The sites to the south of Leamington Spa fit the requirements of numerous house builders who have funds to deliver housing as soon as permission is granted.

On average upto 255 dwellings per year are needed to be sold if the southern area of Leamington takes not only the proposed allocations but also the extra 2,500 dwellings at Lower Heathcote.

At a rate of 0.75 sales per week, this represents 6 or 7 outlets. A number of the major house builders are regularly dual branding or selling from more than one sales centre on a site (eg targeting first time buyers on one site and families on the other) This sales target could therefore be satisfied by only 3 or 4 house builders. Such targets are in our experience achievable under current and foreseeable market conditions in an area of strong new homes demand such as Leamington Spa.

I am confident that should planning permission be granted there would be great demand from both regional and national builders to acquire this site to satisfy the pent up demand for new homes in Leamington Spa.

July 2012

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Appendix 2

Appeal Decision for Hunting Butts Farm (APP/B1605/A/11/2164597/NWF)



Appeal Decision

Inquiry opened on 20 March 2012

Accompanied site visit made on 22 March 2012

by L Rodgers BEng (Hons) CEng MICE MBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 June 2012

Appeal Ref: APP/B1605/A/11/2164597

Land at Hunting Butts Farm, Swindon Lane, Cheltenham, Gloucestershire, GL50 4NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Galliard Developments Ltd against the decision of Cheltenham Borough Council.
 - The application Ref 11/00257/OUT, dated 11 February 2011, was refused by notice dated 13 May 2011.
 - The development proposed is described as an "outline planning application for development of up to 135 dwellings with all matters reserved".
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application for up to 135 dwellings was submitted in outline with all matters reserved for future determination. I have dealt with the appeal on that same basis.
3. On the 13 March 2012 the Council wrote to the Secretary of State requesting that he exercise his 'call-in' powers to recover jurisdiction and determine the appeal. Having considered the Council's request the Secretary of State decided not to recover jurisdiction. This decision was confirmed by letter from the Planning Inspectorate dated 19 March 2012.
4. The inquiry opened on the 20 March 2012. However, it was announced during the course of the initial sitting that publication of the National Planning Policy Framework (NPPF) was about to take place. Given that, once published, the NPPF was likely to become a weighty material consideration the inquiry was adjourned in order to allow the parties the opportunity to assess its effect on their cases and to submit supplemental proofs. The inquiry resumed on the 15 May 2012.
5. A full and final list of the Core Documents (Version 9 – 14 May 2012) was submitted to the inquiry as Document 19.
6. The Appellant has submitted a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990. This forms a material consideration which I shall take into account in my decision.

Main Issues

7. The appeal site lies in the Green Belt. It is common ground between the main parties that the proposal would constitute inappropriate development in the Green Belt. Having had regard to Paragraph 89 of the NPPF I see no reason to take a different view. Taking account of this and the submissions to the Inquiry I consider the main issues to be;
- the effect of the proposed development on the Green Belt and the purposes of including land within it;
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the Council's spatial vision for the area;
 - the presumption in favour of sustainable development contained in the NPPF;
 - the effect of the development on the supply of housing, including affordable housing; and
 - whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Background

8. The Appellant is seeking planning permission for the erection of up to 135 dwellings with associated development on agricultural land at Hunting Butts Farm to the north of Cheltenham.
9. The appeal site encompasses two agricultural fields on a landform which slopes gently downward from Swindon Lane to form a shallow depression before rising upward on a predominantly south facing slope to the Hunting Butts ridgeline. Hunting Butts Farm lies on top of the ridge and the developed area of Cheltenham lies to the south side of Swindon Lane. The site itself is open and undeveloped but there is some, albeit limited, development near to the periphery of the site. The site is crossed below the ridgeline by a public right of way known as the Cheltenham Circular Walk (CCW).

The Green Belt and the purposes of including land within it

10. The NPPF states at Paragraph 79 that the Government attaches great importance to Green Belts and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
11. The area proposed for the development lies below the line of the CCW. In consequence, the built form would occupy around 6.8Ha out of a total site area of some 9.3Ha. Nevertheless, and despite the Appellant's intentions to reduce the visual impact of the development through landscaping and careful management of the proposed housing configuration and its levels, I am in no doubt that the proposed development would significantly reduce the openness of the Green Belt.

12. The appeal proposal represents inappropriate development in the Green Belt. According to the NPPF at Paragraph 87, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF Paragraph 88 states that in considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
13. Policy CO6 of the Cheltenham Local Plan 2006 (LP) states that, except in very special circumstances, there will be a presumption against the construction of new buildings within the Green Belt other than for certain defined purposes. The proposed development does not fall within those defined purposes. Although the Local Plan was not adopted pursuant to the Planning and Compulsory Purchase Act 2004, Policy CO6 aligns with the NPPF.
14. NPPF Paragraph 80 identifies that the GB serves five purposes. The first of these is to check the unrestricted sprawl of large built up areas. In terms of preventing urban sprawl, the Appellant believes that the existing Green Belt boundary along Swindon Lane is weak. A similar position was also advanced in the 2007 Green Belt Review¹ undertaken on behalf of the Council. However these are both views with which I have some concerns.
15. The Green Belt Review notes at paragraph 6.4.1 that the then extant guidance in Planning Policy Guidance: Green Belts (PPG2) sought for boundaries to be clearly defined using readily recognisable features such as roads. Nevertheless, the review then goes on to draw distinctions between various types of road (as shown in Table 6.1) suggesting that only some types of road form strong boundaries. Based on the categorisations given in Table 6.1 Swindon Lane is classified as a 'weak' boundary.
16. However, there is only limited justification of the categorisations in the review and it seems to me that Swindon Lane provides a boundary to the Green Belt that is physically very distinct and likely to have a high degree of permanence. The NPPF notes at Paragraph 85 that when defining boundaries local planning authorities should use physical features that are readily recognisable and likely to be permanent. In my view Swindon Lane is just such a feature.
17. The Appellant argues that the proposed development would provide a contained boundary to the developed area through the presence of the ridge and the proposed landscaping. However the ridge lacks definition and the landscaping would need to be created as part of the development and would lack permanence. Consequently I see neither as providing a clear or strong boundary – even in combination. In any event, approving the appeal proposal would not, of itself, result in an alteration of the Green Belt boundary; it would, however, considerably diminish the value of Swindon Lane as a well defined Green Belt boundary in its own right.
18. The proposed development would be more or less contiguous with that to the south of Swindon Lane. Notwithstanding that the development would be visually contained by Hunting Butts ridge it would clearly extend the built form of the town into the defined Green Belt. In so doing it is my view that it would

¹ CD10/5

not only compromise the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open but it would also lead to a weakened and less well defined boundary to the Green Belt.

19. The second purpose of Green Belts is to prevent neighbouring towns from merging into one another. In this respect the appeal site lies more or less directly south of Bishop's Cleeve. As the development would push northwards from Cheltenham and would occupy what is presently open land between Cheltenham and Bishop's Cleeve it is bound to bring the settlements physically closer together. Indeed, the Appellant accepts that in ".....plan form the settlements will be marginally closer."
20. However, the Appellant also argues that the concept of merging requires consideration of both visual and perceived separation. In this respect the Appellant points out that the topography of the land, and specifically the presence of the ridge, would prevent any visual merging or growing together of the settlements. It is also suggested that the development would be screened from the road connecting the two settlements and that in all these circumstances the proposals would not lead to a merging of the settlements.
21. I have some sympathy with the Appellant's contentions; certainly in many views from the north the development would be unseen. Consequently, and taken in isolation, in those views from the north the perception of separation would remain unchanged. However, it is an argument that could be taken too far – even to the point at which it might be suggested that development could take place up to the ridge on both sides.
22. The reality is that the proposed development would extend the built form of Cheltenham to the north and would clearly be visible from Swindon Lane - as well as from some other areas further back within the settlement. In consequence its presence would be well known to local residents and despite it being hidden in views from Bishop's Cleeve by the ridge line it would nevertheless be obvious to local residents that the separation of the settlements had been reduced.
23. Having regard to the extent and plan form of the development along the southern edge of Bishop's Cleeve and its geographic location relative to that of Cheltenham, it seems to me that in terms of preventing the merging of neighbouring towns the Green Belt in this location is especially valuable and somewhat vulnerable.
24. The third purpose of including land in Green Belts is to assist in safeguarding the countryside from encroachment. The Appellant considers that the topography and degree of containment would ensure that any impact would be localised. However, whilst I agree that from certain directions the topography is likely to lessen the development's visible impact, from other directions – such as in views down Tommy Taylor's Lane – the impact of the development may actually be more pronounced as a result of the topography.
25. In any event, the appeal site is in the Green Belt and outside of the residential areas and should be regarded as countryside. Consequently, even if the visual impact of the development were to be contained by the topography - and whilst also acknowledging that the built form would occupy only some 6.8Ha of the total site - the proposed development would still represent a significant encroachment into the countryside.

26. The fourth purpose of including land in Green Belts is to preserve the setting of and special character of historic towns. I am in no doubt that Cheltenham should be regarded as a historic town although, as the Appellant points out, the historic core of the town and its conservation areas are somewhat distant from the appeal site. Indeed, the more immediate parts of the settlement are fairly modern in origin. That having been said, it is clear from the information put before the inquiry and from my site visit that the setting of Cheltenham as a whole is dependent on its relationship with the surrounding countryside. This countryside is, in many instances, elevated above the town and provides both a sense of containment and enclosure to Cheltenham as well as affording views into and across the town that allow its setting to be appreciated.
27. Clearly the Hunting Butts ridge and the appeal site do not have the presence or significance of some of the other surrounding countryside. Nevertheless, they do in small measure provide some of the containment that I see as being a characteristic of Cheltenham's setting, particularly in views from Tommy Taylor's Lane.
28. The CCW also affords views across Cheltenham which not only give a panoramic appreciation of the town's historic skyline but which also reveal the town's setting in the surrounding countryside - particularly against the background of the Cotswold Hills. Although access to the CCW is not especially easy, and would in fact be facilitated by the development, nor is it particularly difficult. Having regard to the statements put before the inquiry as well as my own observations on site I consider it likely that the footpath is well used. Even if much of that use is local that alone does little to diminish the importance of views from the path.
29. The proposed design would restrict development to the area below the CCW and in so doing it is likely that views of Cheltenham's skyline from the CCW would be retained. Nevertheless, in contrast to the current situation, these views would have development in the immediate foreground. This would not only disguise what is currently a well defined edge to the town but would make the views from the CCW more intimate. In consequence it would be more difficult to appreciate the relationship of Cheltenham to the surrounding countryside and as such the proposed development must compromise the town's setting when seen from the CCW. In addition views of the countryside from Tommy Taylor's Lane would become confined to a small area of Hunting Butts ridge appearing above the developed area. As a result some sense of being surrounded by countryside would be lost.
30. I therefore find that the appeal site does contribute to the historic setting of the town and despite the fact that the design and layout of the development would be sensitive to some of the more significant characteristics of the appeal site, the development would compromise that setting. Consequently it would also offend the fourth purpose of the Green Belt.
31. In terms of the fifth purpose of Green Belts to assist in urban regeneration by encouraging the recycling of derelict and other urban land, at a prima facie level it seems that the use of a Green Belt site is likely to discourage rather than encourage the use of derelict and other urban land. However, in the case of Cheltenham it appears as though the Council cannot meet its development targets on previously developed land and is already looking to the development of land outwith the settlement boundary. Consequently, I do not see the fifth purpose of Green Belts as being materially compromised by the proposal.

Character and appearance

32. NPPF Paragraph 109 states, amongst other matters, that the planning system should contribute to and enhance the natural environment by protecting and enhancing valued landscapes and Paragraph 113 notes that "Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged".
33. The appeal site lies in the countryside and falls within the 'settled unwooded vale' character type as identified in the Gloucestershire Landscape Character assessment.² However the site is not subject to any explicit character or landscape designation and should not be regarded as a 'protected landscape' for the purposes of NPPF Paragraph 113.
34. Whether or not the site should be regarded as a 'valued landscape' in terms of Paragraph 109 is more debateable. Whilst the Council has not accorded the site any particular designation it is clear that local residents appreciate its visual amenity value - and, as noted earlier, the undeveloped site contributes to the setting of Cheltenham. In any case, irrespective of whether the site has any formal designation, one of the core planning principles in NPPF Paragraph 17 is that planning should take account of the different roles and character of different areas by recognising, amongst other matters, the intrinsic character and beauty of the countryside. The site is clearly in the countryside and consequently, whether or not it should be regarded as a 'valued landscape' in terms of Paragraph 109 the need remains to assess the impact of the development on its character and appearance.
35. In terms of the development plan, LP Policy CO1 states that development will only be permitted where it would not harm attributes and features which make a significant contribution to the character, distinctiveness, quality and amenity value of the landscape and where it would not harm the visual amenity of the landscape.
36. The Appellant considers LP Policy CO1 to be restrictive whereas the NPPF is considered permissive; as such the Appellant believes there to be more than a limited degree of conflict with the NPPF. Consequently the Appellant also considers that the proper balancing test should be that laid out in NPPF Paragraph 14; in other words, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. However, as the appeal site is in the Green Belt the site is subject to a specific Framework policy indicating that development should be restricted. In these circumstances Paragraph 14 is clear that, even if relevant development plan policies are out of date, the presumption to grant permission does not apply.
37. The Appellant nevertheless suggests that having regard to LP Policies CO1 and CP 1 (Table 2), as well as Policy NHE.1 of the Gloucestershire Structure Plan Second Review (SP), there is a recognition that further development outside the settlement is necessary and will inevitably change its character.
38. SP Policy NHE.1 is clear that, amongst other matters, the countryside's character and appearance will be protected from harmful development unless any such harm is outweighed by social or economic needs and LP Policy CP1

² CD 10/8

refers to safeguarding attractive landscape. I therefore accept that the development plan recognises that some development in the countryside may be necessary - whilst at the same time seeking to conserve its most valuable features. The value of the landscape and the impact of the development on it are clearly matters which must be taken into account in the overall balance.

39. As has already been mentioned, the appeal site is not subject to any landscape designations and albeit that it forms part of the 'settled unwooded vale' character type I find this of limited use in assessing the impact of the development. To my mind the landscape character type merely defines, rather than values, the landscape. As such I find it of little help in identifying any harm or benefit consequent on development of the land.
40. The Appellant argues that the site has little to commend it in terms of landscape features, further suggesting that the site has a number of negative, urbanising features. I accept that the site is comprised of fairly typical agricultural fields. However, with its peripheral hedging and expansive views the site does exhibit a number of typical countryside characteristics and I consider that the Appellant's views in terms of 'negative, urbanising features' are somewhat overstated.
41. Were it to be a flat extension from the urban edge of Cheltenham, the site would have little to distinguish it from many other agricultural fields. However, the landform of the area, particularly the sweep up to Hunting Butts ridge, does in my view present as being visually attractive and the site provides a highly visible and effective contrast to, and relief from, the residential development south of Swindon Lane. Although the Appellant suggests that there are only limited, short views from within the urban environment, the appeal site is clearly highly valued by local residents - particularly those with properties facing towards it.
42. I accept that the ridge would serve to contain the development and as such it would not generally be seen from the countryside nor would it be seen in the context of the broader countryside. However, to my mind that does not alter the site's value to those receptors in the urban area of Cheltenham or to those travelling along Swindon Lane. Whilst it is also suggested that development to the north of Swindon Lane, both to the east and west of the appeal site, has an urbanising influence on the site I consider any such influence to be limited.
43. I note that the layout of the development would respect the ridge, and that the intention is to provide significant landscaping. I am also conscious that the skyline, and some views from the bottom of Tommy Taylor's Lane, would be preserved and that views from the CCW have been carefully considered. Nevertheless, despite the proposals for a high quality, well landscaped development there would be a significant urbanising effect on a site that not only exhibits a number of countryside characteristics but that also has an attractive and interesting landform. In my judgement the development would cause material harm to the area's character and appearance and would thus be in conflict with LP Policy CP1.
44. However, it should be remembered that the site has no particular landscape designation and, other than the landform, the site has few distinguishing features. Consequently the degree of harm should not be overstated and should carry no more than moderate weight against the development.

The Council's spatial vision for the area

45. Development round the periphery of Cheltenham is constrained by both the Green Belt and the AONB and, if Cheltenham's housing and economic development needs are to be met, development outside the settlement boundary appears inevitable. This in part has led to the three councils of Gloucester, Tewkesbury and Cheltenham promoting a Joint Core Strategy (JCS) with the aim of taking a coherent approach to development. The Council believes that release of this site has the clear potential to undermine that coherent approach.
46. The JCS is at a very early stage and there are no policies to be considered under NPPF Paragraph 216 - nor is there yet a preferred option. Nevertheless, as part of 'Developing the Preferred Option' sites have been identified in the Green Belt that would deliver some 5750 homes outside Cheltenham. However, these sites lie to the north-west and to the south of Cheltenham and the appeal site is not amongst those put forward. Indeed, the area between Cheltenham and Bishop's Cleeve has been identified in both the Cheltenham Green Belt Review of 2007 and the Joint Core Strategy Green Belt Assessment of September 2011 as being of particular importance in preventing the merger of the two settlements. This is a view with which, for the reasons given earlier, I concur. Although the Appellant suggests that the reviews relate to an area much larger than the appeal site this is an argument that could be repeated too often.
47. Despite the JCS being at a very early stage *The Planning System: General Principles* says that in some circumstances it may be justifiable to refuse planning permission on the grounds of prematurity where a DPD (Development Plan Document) is being prepared or is under review. This may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development being addressed in the policy in the DPD.
48. At up to 135 homes the appeal proposal is not so substantial that it would prejudice the DPD. The Council nevertheless argues that if the appeal proposal were to be approved then it would constitute a salient of development into the Green Belt that would mean that the boundary provided by Swindon Lane would cease to be regarded as permanent. In turn this is likely to lead to further applications on nearby land using similar arguments to those advanced here. In support of this, the Council points out that nearby land has previously been the subject of both planning applications for residential development and promotion through successive development plan processes, again for residential development.
49. Although the Appellant points out that there have been no recent applications on the adjoining land I have some sympathy with the Council's view that approving this proposal would make it more difficult to resist future applications nearby. However, given that each development would need to be considered on its own merits I have no reason to believe that even the cumulative effect would be so significant as to prejudice the scale, location or phasing of new development in the DPD.
50. I also have some sympathy with the Council's views that the potential for a patchwork of ad-hoc releases of Green Belt land would not be co-ordinated and

would not represent good planning. However, as the Appellant points out, given that Members are 'minded' to support as a preferred option for the JCS a strategy not to build in the Green Belt – an option that Officers consider unsound – there are some risks to the adoption of the JCS by 2014 and it may end up being delayed. In all these circumstances I can give little weight to any potential prejudice to the Council's spatial vision for the area.

Other considerations

The National Planning Policy Framework and the presumption in favour of sustainable development

51. With respect to the presumption in favour of sustainable development the NPPF is a weighty material consideration in determining applications. However, it does not change the statutory status of the development plan as the starting point for decision making. The NPPF itself is clear at Paragraph 11 that planning applications should continue to be determined in accordance with the development plan unless material considerations indicate otherwise.
52. Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local authority cannot demonstrate a five-year supply of deliverable housing sites. I shall return to these matters below but it is clear that the Council is unable to demonstrate a supply of specific deliverable sites sufficient to provide five years worth of housing. The Council also has a chronic shortage of affordable housing. In these circumstances it is clear that policies relevant to the supply of housing should not be considered up-to-date.
53. Paragraph 14 of the NPPF states that a presumption in favour of sustainable development is a 'golden thread' running through both plan-making and decision-taking. For decision taking this means that (unless material considerations indicate otherwise) development proposals that accord with the development plan should be approved without delay.
54. The second bullet point says that where the development plan is absent, silent or relevant policies are out of date then the presumption in favour of sustainable development means that (again, unless material considerations indicate otherwise) permission should be granted unless: any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the NPPF policies as a whole or specific NPPF policies indicate development should be restricted.
55. In this case the development plan is not absent nor is it silent. Nevertheless, having regard to NPPF Paragraph 49 and the housing supply situation, it is clear that relevant policies for the supply of housing should be considered out of date. Given the particular circumstances of Cheltenham, where the town is virtually surrounded by green belt or AONB, it could even be argued that Green Belt policies themselves were "Relevant policies for the supply of housing....." and thus they too could be deemed out of date.
56. However, whilst I accept that Paragraph 49 casts a wide net, even if Green Belt policies were to be deemed "Relevant policies for the supply of housing.....", the final part of Paragraph 14 makes it clear that (again, unless material considerations indicate otherwise) where specific policies, including Green Belt

policies, indicate that development should be restricted then the presumption in favour of granting permission does not apply. That is the case here.

The supply of housing (including affordable housing)

57. The NPPF at Paragraph 47 seeks for local planning authorities to boost significantly the supply of housing by, amongst other matters, identifying a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. An additional 5% buffer should be provided to ensure choice and competition in the market for land - and where there has been a persistent under delivery of housing that buffer should be increased to 20%.
58. In this case it is undisputed that the Council cannot demonstrate a five year housing land supply, let alone a buffer. What is in dispute is the extent of the shortfall and whether or not the Council has a record of persistent under delivery.
59. The Council believes that its deliverable supply amounts to just over 4 years; however, that does not take account of the significant shortfall against the annual requirement for 2011/12 nor does it account for any buffer. Whilst changes to the 5 year trajectory are not yet certain and any figures should be treated with a degree of caution the inquiry was told that, based on the Council's assessments and accounting for the shortfall of delivery in 2011/12, the supply would fall to something around 3.8 years. Allowing for a 5% buffer would give a deliverable supply of just over 3.6 years and a 20% buffer would give a supply of just over 3 years.
60. The Appellant takes a different view of deliverability and the particular sites that have reasonable prospects both of coming forward and of being viable. Taking account of these assessments and the 2011/12 shortfall would, in the Appellant's view, give the Council a supply of some 2.3 years. Adding in the need to deliver 5% and 20% buffers would result respectively in supplies of around 2.2 and 1.9 years.
61. I see no benefit in seeking to further analyse the deliverability of individual sites; suffice to say that, excluding the need for a buffer, the supply is likely to fall somewhere between 2.3 and 3.8 years.
62. In terms of the buffer to be applied the Appellant maintains that there has been a record of persistent under delivery noting that the Council has failed in each of the past four years to deliver its annual housing target. The Appellant also points out that in 2010/2011 the Council delivered only a third of its annual requirement and in 2011/2012 appears to have delivered just 36 dwellings against a target of 395. The Appellant also suggests that the Council has been unable to demonstrate a five year housing supply for some time and that in these circumstances the buffer should be 20%.
63. In contrast the Council points out that over the period 2006/7 to 2010/11 it had around 2175 completions compared to a requirement of 2025, an over provision of some 150. As such the Council believes that it has not had a record of 'persistent' under delivery.
64. The recent economic climate has not been conducive to housing delivery and this must have had some impact on the number of completions. Nevertheless, the fact that the Council has had ongoing difficulties in being able to

demonstrate a five year supply, has failed to deliver its annual target in any of the last four years, and by a very considerable margin in the last two, seems to me indicative of an underlying problem that points towards adopting the larger buffer. On this basis the likely supply would fall somewhere between 1.9 and just over 3 years.

65. The calculation of housing land supply is not an exact science and I see no need to treat it as such. It is very clear that even on the Council's best scenario the supply of housing land, including a 5% buffer, would represent only some 3.6 years supply and on the Appellant's projections and including a 20% buffer the supply would be less than 2 years. In either case, the supply would fall well short of five years. The provision of housing against this shortfall must carry significant weight in favour of the proposed development.
66. Turning to the matter of affordable housing the Council accepts that there is an acute shortfall. Indeed, the Appellant suggests that the current supply measured against the need amounts to a supply equivalent to something between 19 and 43 days. The quantum of affordable housing being put forward on the appeal site exceeds the average delivery of affordable housing over the last five years and almost quadruples the amount delivered in the last year.
67. The development plan, through LP Policy HS4, seeks for a minimum of 40% of the total dwellings to be provided as affordable housing. In this case, the Appellant is proposing that 60% of the dwellings would be provided as affordable housing; these would be secured through a planning obligation. The Council states that it would welcome the provision of additional affordable housing were the development to be approved. However, the Council also has reservations as to whether a provision in excess of that which is necessary for conformity with the development plan would meet the test in Regulation 122 of the Community Infrastructure Levy Regulations.
68. To some extent the argument is academic in that, given that the Council cannot demonstrate a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date. This, to my mind, would include Policy HS4 and it therefore seems to me that little weight can be attached to the fact that the policy seeks a minimum of 40% affordable housing.
69. Having regard to the presumption in favour of sustainable development contained in NPPF Paragraph 14, even though in this case there are specific Green Belt policies indicating that development should be restricted, it is still necessary to look to whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations.
70. In undertaking that balance I consider that the acute shortfall of affordable housing and the provision of affordable housing on the site are other considerations that must be taken into account in the overall Green Belt balance. If, having undertaken that balance, it is determined that permission should be granted then, as the Appellant suggests, the obligation would be necessary to secure the delivery of the affordable housing on the same basis that its merits have been assessed.
71. Although the Council argues that the proposed level of affordable housing would represent no more than 11 days supply, this is an argument which could

be repeated on most sites. Consequently it does not alter my view that the proposed affordable housing provision would represent a further benefit of the proposal. It should, however, be noted that the provision of affordable housing would reduce the level of market housing, itself in short supply. Nevertheless, the provision of affordable housing should again carry significant weight, albeit not the 'compelling' weight suggested by the Appellant.

Sustainability

72. There is no dispute that the site is in a sustainable location with respect to transport. Although the Council suggests that in this respect it is no different to many other sites around the urban periphery it is nonetheless a material consideration that should attract some limited weight.

Design, landscape and accessibility

73. It is agreed that the scheme could deliver a high quality and attractive design but as the Council points out this is no more than would be expected from any scheme. However, I am conscious that the proposed layout is respectful of the CCW, that significant landscaping is proposed, that there would be accessibility to the upper ridge and that access to the CCW would be improved. I also note that the landscaping plan allows for new wildlife corridors and habitats and that the watercourse would be opened up. Irrespective of the need for any scheme to deliver high quality design I consider that these matters should again carry some limited weight in favour of the proposal.

Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations

74. The proposal would constitute inappropriate development, harmful to the Green Belt. The presumption against inappropriate development means that this harm alone attracts substantial weight. The development would also significantly reduce the openness of the Green Belt when the most important attributes of Green Belts are their openness and permanence. The NPPF makes it clear that substantial weight should be given to any harm to the Green Belt.

75. In addition, of the five purposes of including land within the Green Belt the proposed development would materially offend four. Firstly, not only would the development compromise the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open but it would also result in a weakened and less defined boundary to the Green Belt. This could make it more difficult for the Council to resist further Green Belt incursions.

76. Secondly the proposal would be contrary to the Green Belt purpose of preventing neighbouring towns from merging into one another. I consider this of particular importance as the Green Belt between Cheltenham and Bishop's Cleeve is especially valuable in this respect - whilst also being somewhat vulnerable. Thirdly, the development would conflict with the Green Belt purpose of safeguarding the countryside and would represent a significant encroachment into it. Fourthly, the development would compromise the Green Belt's purpose to preserve the setting of and special character of historic towns, in this case Cheltenham. I do not, however, see the fifth purpose of Green Belts (to assist in urban regeneration) as being materially compromised by the proposal.

77. In addition to the Green Belt harm I have found that there would also be harm to the character and appearance of the area. However, I consider that the degree of harm should not be overstated and should carry no more than moderate weight against the development. I give little weight to any prejudice to the Council's spatial vision for the area.
78. The development would, however, provide both market and affordable housing. The Council is unable to demonstrate a five-year supply of deliverable housing sites; indeed the supply would fall well short of five years irrespective of any buffer now to be added in accordance with the NPPF. The provision of housing against this shortfall must carry significant weight in favour of the proposed development. The Council also accepts that it has a chronic shortage of affordable housing and the provision of 60% affordable housing must also represent a further benefit of the proposal. Given the severe shortage, this must again carry significant weight.
79. Matters of sustainability, design, landscaping and accessibility add some further limited weight in favour of the proposal but the presumption in favour of sustainable development laid out in NPPF Paragraph 14 does not apply.
80. I consider that the harms to the Green Belt and its purposes are very real and substantial and development of the appeal site raises particular issues in respect of the Green Belt purposes of preventing the merger of settlements and preserving the setting of historic towns. The harm to the Green Belt is added to by the harm to the character and appearance of the area. Balanced against those harms are the provision of housing and affordable housing on the site and some additional benefits in terms of sustainability, design, landscaping and accessibility.
81. Seen as a whole, and despite attributing significant weight to the housing benefits, it is my judgement that the totality of the harm is not clearly outweighed by the other considerations. Consequently the very special circumstances necessary to justify the development do not exist and the proposed development would be contrary to LP Policy CO6 and the NPPF.

s106 Unilateral Undertaking

82. The Community Infrastructure Levy Regulations 2010 confirm that it is unlawful for a planning obligation to be taken into account in a planning decision on a development which is capable of being charged CIL if the obligation does not meet all of the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development (Regulation 122). NPPF Paragraph 204 reinforces these provisions.
83. Whilst the submitted Undertaking would ensure the provision of affordable housing as part of the development, a matter I have previously addressed, it would also make provision for matters such as public art, a travel plan, transport and library facilities. However, given that I have found that the very special circumstances necessary to justify the development do not exist I see no reason to assess the submitted obligation against the CIL Regulations and the NPPF.

Conclusion

84. I accept that it is highly likely that development outside the settlement boundary of Cheltenham, probably in the Green Belt, will be necessary if Cheltenham's housing and economic development needs are to be met. However, in this case I have found that despite the clear benefits of the scheme in meeting some of those housing needs the particular characteristics of the appeal site mean that the totality of the harm would not be clearly outweighed by other considerations and the very special circumstances necessary to justify the development do not exist.
85. Having had regard to all other matters before me, including the economic benefits of the development, the effect of the New Homes Bonus and the range of issues raised by third parties, I find nothing to materially affect my finding above. The appeal must therefore fail.

Lloyd Rodgers

Inspector

APPEARANCES

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INTERESTED PERSONS:

Mr W Lewis	Local resident
Mr C Wharton	Local resident
Cllr L Godwin	Ward Councillor, Prestbury
Mr A Cameron	Local resident
Mr R Fuller	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Agenda item 9. Cheltenham Borough Council minutes of 10 November 2011. Submitted by Mr Williams.
- 2 Final draft of s106 Unilateral Undertaking. Submitted by Mr Williams.
- 3 Annotated panoramic view: Hunting Butts Farm. Submitted by Mr Goatley.
- 4 Appellant's opening statement. Submitted by Mr Williams.
- 5 Summary proof of evidence of Mr J Overall. Submitted by Mr Goatley.
- 6 Letter from the Council to the Secretary of State for Communities and Local Government. Submitted by Mr Goatley.
- 7 e-mail from Mr J Coker of Knight Frank. Submitted by Mr Goatley.
- 8 Joint Core Strategy summary guide. Submitted by Mr Goatley.
- 9 Written statement of Mr A Cameron
- 10 Written statement and attachments of Cllr L Godwin
- 11 Statement of Common Ground- Affordable Housing
- 12 Bruton Knowles 5 year housing supply calculation. Submitted by Mr Williams.
- 13 Unilateral Undertaking dated 14 May 2012. Submitted by Mr Williams.
- 14 Notification of inquiry resumption. Submitted by Mr Goatley.
- 15 Core Documents List (Version 8 – 23 February 2012). Submitted by Mr Goatley.
- 16 Council's statement re North Place and Portland Street Car Park sites. Submitted by Mr Goatley.
- 17 Laying the Foundations: A Housing Strategy for England (CD10/22). Submitted by Mr Goatley.
- 18 The National Planning Policy Framework. Submitted by Mr Goatley.
- 19 Core Documents List (Version 9 – 14 May 2012). Submitted by Mr Goatley.
- 20 Corrected tables. Appendix A4.6 to CD10/5. Submitted by Mr Goatley.
- 21 Statement of CIL compliance by Gloucestershire County Council acting as Highway Authority. Submitted by Mr Goatley.