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By email: david.lowin@stroud.gov.uk

22nd December 2016

RE: Further Representations for Planning Application s.16/0043/OUT – Land at M5 J13 West of Stonehouse, Eastington

Dear Mr Lowin,

Troy Planning + Design (Troy Hayes Planning Limited) has been instructed by Eastington Parish Council to assist in the preparation of additional representations to planning application s.16/0043/OUT referred to above following the receipt of Further Environmental Information and associated revisions to the proposals.

On behalf of the Parish Council, we have undertaken a detailed review of this additional material currently available alongside original documentation for the application. We have continued to work alongside Helix Transport Consultants, also instructed by the Parish Council, to assist with further comments on this invariably complex application. This letter should be read alongside all previous submissions from or on behalf of Eastington Parish Council. Recent correspondence from Helix Transport Consultants to Gloucestershire County Council is enclosed with this letter.

The diligence of Officers at Stroud District Council is also appreciated in terms of helping to carefully marshal representations and correspondence to set out the scope for further information and co-ordinate the current second, comprehensive, opportunity for consultation.

We have monitored representations from a number of other stakeholders and understand that a variety of discussions are ongoing. It is anticipated that this process has the scope to generate further revisions to the scheme and further environmental information and therefore further re-advertisement and re-consultation under the Environmental Regulations.

The primary purpose of this letter is to reiterate on behalf of Eastington Parish Council that these speculative application proposals are fundamentally contrary to the adopted development plan. This now includes the 'made' Eastington Neighbourhood Plan. Eastington Parish Council reiterates an objection in principle to the proposals. The Parish Council maintains that the greatest adverse effects of the proposals, if approved contrary to the approach towards sustainable development set out in the adopted development plan, will be concentrated in the immediate locality. Reference to relevant policies, Caselaw, evidence provided by the applicants and information on how the scheme is being promoted and may be delivered is highlighted to reinforce these concerns.

We have advised the Parish Council that the submission of further comprehensive representations should await any details from this emerging information where it may alter the basis for concerns. Omission of reference to any element of the proposals does not indicate acceptance and all comments are made without prejudice to the scope to make further or revised submissions. Although further

revisions may address certain points, Eastington Parish Council considers that fundamental concerns cannot be overcome. Even in the event that significant adverse effects could be mitigated or avoided, the Parish Council has yet to be presented with evidence of the material considerations in terms of local benefits and development outcomes that could otherwise support a departure from the development plan.

The Planning Context - Relevant High Court Caselaw

The applicants have provided a Supplementary Planning Statement (“SPS”) as part of the further information submitted for the proposals. Eastington Parish Council objects to the approach in this document in terms of the interpretation and application of development plan policies and national policy in the NPPF. The SPS pre-dates two recent and vitally important High Court judgments¹². Both judgments reject a wider application of the *presumption in favour of sustainable development* outside of Paragraph 14 of the NPPF, reiterating that this paragraph must be read and applied as a whole. This reinforces the primacy of the development plan. The judgment of Holgate J in the *Test Valley* case further highlights the important role of plan-making in determining the local interpretation and application of sustainable development as a fundamental aspect of presenting sound policies. As explained in Paragraph 119 of the judgment: *“development plans are expected to allocate and promote sustainable forms of development. This is of great significance for the second part of paragraph 14 which deals with decision-taking.”*

The ruling of Green J in the *East Staffordshire* case is entirely consistent, with Paragraph 42 explaining that the presumption is rebutted and cannot remain to be relied upon in favour of granting permission where the conclusion is reached that a proposal is inconsistent with the Local Plan. Paragraph 14, applied as a whole, embodies the presumption and must be worked through. To the extent that there is a residual discretion, the judgment explains that the circumstances for this would be exceptional and that *“moreover, the starting point is not neutral but is adverse to the grant of permission”*.

It is also helpful that Holgate J in *Test Valley*, which concerns the approach to employment land in the development plan and a perceived shortfall, accepts that conclusions of the Inspector in the relevant decision who explained that *“the consequences of failing to maintain a five year supply of housing land set out in the Framework are not replicated in respect of employment land”*. Claims that the development plan should be treated as silent or out-of-date were also dismissed. This too is important in the applicant’s approach towards these proposals.

Relevance of the Eastington Neighbourhood Plan

The applicant’s Supplementary Planning Statement provides a brief update on the Eastington Neighbourhood Development Plan (ENDP) but refers only to Policy EP8 of the ENDP (now Policy EP6 in the ‘made’ ENDP). The assessment acknowledges significant weight should be afforded to the ENDP. Whilst welcomed, it is important to highlight that full weight should now be afforded to the Neighbourhood Plan. The ENDP is now ‘made’ and came into legal force as part of the statutory development plan on 27th October 2016.

¹Trustees of the Barker Mill Estate v Test Valley Borough Council & SSCLG [2016] EWHC 3028 (Admin)

² East Staffordshire Borough Council v SSCLG & Barwood Strategic Land II LLP [2016] EWHC 2973 (Admin)

The great weight that the government attaches to neighbourhood planning should not be overlooked. Previous Written Ministerial Statements and directions have reinforced this position, albeit generally focused on residential development. It should be kept in-mind, however, the appeal proposals at Land North of Alkerton Road, Alkerton under PINS Ref: 3147240 have been recovered for determination by the Secretary of State on the basis of relevant ministerial powers.

Eastington Parish Council is reassured that the present application proposals fall within the scope for relevant Directions governing 'call in' by the Secretary of State under s.77 of the Town and Country Planning Act. In addition to the present circumstances of the proposals comprising major development, outside of a town centre and not contained within the Local Plan, the existence of the 'made' ENDP may lend additional weight to support determination of the proposals by the Secretary of State.

It should be highlighted that the ENDP was examined and the recommendation to proceed to referendum was made on the basis that the Plan satisfies the 'basic conditions' and all other relevant tests. This means that the Plan is considered to contribute towards achieving sustainable development and is in general conformity with the strategic policies of the Local Plan. The ENDP adds important detail to the overall approach of the Local Plan; it does not supersede or override the direction of the Local Plan. The ENDP addresses all three strands of sustainable development and must be considered as a whole in addressing whether any proposal represents change for the better.

At Paragraph 2.60 the Supplementary Planning Statement suggests that Policy EP6 of the ENDP would not justify refusing consent because the objectives of the Local Plan (as argued by the applicants) would be compromised. This is simply incorrect for the reasons set out above. If Policy EP6 frustrated the objectives and strategic policies of the Local Plan then the ENDP would not have successfully passed Examination.

Policies EP1 of the ENDP reinforces and clarifies the locations where development is supported within the Parish and complements the policies of the Local Plan. The Examiner's Report for the Eastington Neighbourhood Plan specifically requested the amendment of Policy EP1 to clarify the importance of any development in addition to West of Stonehouse being within the settlement boundary of Alkerton: *"Development outside the West of Stonehouse allocation should take place within the settlement boundary of Alkerton as defined on Map 1. Development in other hamlets and the countryside should accord with Local Plan Policy CP15."* It is clear that the proposed development would be in direct conflict with Policy EP1 of the 'made' Neighbourhood Plan.

The following text recommended by Examiner Rosemary Kidd and now included as part of the 'made' ENDP is also relevant in relation to the West of Stonehouse Extension and by implication the current application proposals, referring to the objective of *"a series of interlinked neighbourhoods providing housing, employment, social and recreational needs within an extensive landscaped framework. Green infrastructure physically separates and provides the setting for each neighbourhood, whilst preserving the setting of the existing communities, listed buildings and the network of green lanes"*. The application proposals undermine these principles, seeking additional large scale strategic growth in the countryside and undermining the existing settlement pattern. The application material makes no reference to the Eastington Environmental Character Assessment, which is relevant to these principles and the wider application of Policy EP4 of the ENDP.

The relatively narrow assessment of the ENDP undertaken in the Supplementary Planning Statement is not supported and fails to assist with identifying all relevant policies and material considerations. Based on the above analysis, these application proposals should be refused and the Refusal Reasons should cite all relevant ENDP Policies EP1 (Sustainable Development), EP4 (Siting and Design of New Development) and EP6 (Business and Employment) as part of determining this outcome.

The Approach in the Supplementary Planning Statement

The ‘Supplementary Planning Statement’ (Hunter Page Planning, Sep 2016) claims to focus primarily on the economic strand of sustainable development relevant to the proposal (Para 1.8). However, it fundamentally misrepresents the overall spatial strategy in the Local Plan. This fundamentally ignores the wider approach towards sustainable development in the Local Plan and therefore how NPPF Paragraph 14 should be applied.

Crucially, the Planning Statement at Paragraph 4.82 claims that the development proposals ‘do not in any way conflict with the purposes’ of Policy CP15 of the SDLP which determines appropriate uses in the countryside. This terminology is a reference to recent Appeal Caselaw in the District, namely the case at Chestnut Park, Kingswood, under PINS Ref: 3011370. Stroud District Council sought permission to challenge this Decision in the High Court³. Whilst permission was refused, the judgment and reasons given provide valuable information for how the Chestnut Park Decision should be interpreted.

The overall conclusion is that each case must be determined on its merits. The findings in a single S78 Appeal Decision do not over-ride the primacy of the development plan. In the case of Chestnut Park the policies of the Local Plan were being applied at the site-specific level; they are not considering appropriate scales (or types) of development at the settlement level nor indeed at different tiers of the settlement hierarchy in general. Neither should be transposed to apply directly to a specific settlement and in the case of the Kingswood Decision there is nothing to indicate that another Inspector may not take a different view on a separate site or indeed the appeal site then in question.

The applicants in this case do not provide a clear interpretation of what they consider the ‘purposes’ of Policy CP14 to be, other than to protect the countryside in general and prevent the inappropriate coalescence of development. This interpretation is incorrect. The Local Plan must be read as a whole. Critically, the applicant’s Supplementary Planning Statement in the FEI makes no reference to key policies including Policy CP4 (‘Place Making’) of the adopted Stroud District Local Plan. This requires that proposals have regard to the ‘Mini-Vision’ for the relevant Cluster – in this case the ‘Stonehouse Cluster’. The main relevant Guiding Principles for the area include:

*“The physical distinctiveness of Stonehouse will be retained: **avoid physical and visual amalgamation by resisting development at key ‘gaps’**” (Priority 3);*

*“Acknowledge role of the A419 as a ‘gateway’ to Stonehouse and to the Stroud Valleys beyond. **Avoid urbanisation of character and linear sprawl**” (Priority 8); and*

“Conserve and enhance the area’s heritage assets and secure high quality, distinctive design, in keeping with local identity and character - with particular emphasis on

³ [2016] EWHC 1940 (Admin)

*Stanley Mills conservation area **and the Industrial Heritage Conservation Area***
(Priority 9) (from SDLP 2015 Para 3.17 our emphasis)

A response to these principles is not provided in the Planning Statement. Certain elements of the principles are misconstrued. For example Paragraph 2.30 refers to the A419 'gateway' but directly overlooks the relevance of this feature to the wider countryside and its objectives for maintaining separation and avoiding urbanisation. Paragraph 4.67 of the Planning Statement considers that

“following the development of the strategic allocation to the West of Stonehouse, the application site will effectively sit immediately adjacent to the wider settlement of Stonehouse, joining the settlement at Grove Lane making it very much part of the wider Stonehouse area.”

The fact that this may reflect the reality of development outcomes on the ground simply confirms that the application proposals would conflict with not only the principle of Policy CP15 but also the wider objectives and principles to guide development in the Cluster. Other Appeal Caselaw in the District confirms these aspects as a relevant material consideration. This includes an Appeal Dismissed for Land at Street Farm, Cam under PINS Ref: 3139586. This is useful as it addresses considerations for development in another Cluster containing a First Tier Settlement (Cam); Stonehouse is the First Tier Settlement in the 'Stonehouse Cluster' albeit these application proposals are substantially removed from the main town. The relationship between strategic allocations and speculative proposals and the principle of development outside Settlement Development Limits is assessed by the Cam Appeal.

The Street Farm case identifies the in-principle conflicts with Policies CP2 and CP15 of the SDLP (Paragraphs 14, 21, 22 and 39). The Street Farm Decision recognises that the Inspector's Report for the SDLP fully considers the functions of the settlement hierarchy and the function of settlement development limits (and Policy CP2 directing development within these limits) as an important aspect for achieving the overall spatial strategy. The Street Farm Inspector further references the 'mini-vision' for the cluster under Policy CP4 (Paragraph 11) providing further direction for how the area should be considered as a Tier 1 Settlement.

Extending to Paragraph 25, the Street Farm Inspector rejects a narrow interpretation of the 'purposes' of Policy CP15. Further conflict with Policy CP15 is recognised in terms of the site's contribution to the village-like character; creating distinction between different areas of built development, complementing other open space and providing a transition between the urban area and countryside.

The Parish Council therefore rejects the claim at Paragraph 4.67 of the Supplementary Planning Statement which sets out that because the 'Stonehouse Cluster' contains a First Tier Settlement (Stonehouse) the application site itself represents an appropriate focus for development.

The case made for the proposals ignores fundamental principles central to the embodiment of sustainable development in the development plan. These significant conflicts cannot be ignored, particularly given the large-scale nature of these strategic, speculative proposals.

Matters Relating to Promoting and Delivering the Application Proposals

Eastington Parish Council is concerned by the seeming lack of detail or certainty regarding the ability to provide infrastructure and highways mitigation presented as a central aspect of the proposals. It is

anticipated that further detail will emerge on these points as part of additional or revised information such as further transport modelling or the process of drafting any potential S106 planning obligation. Scope to make further submissions is therefore reserved. These comments relate to matters of principle which undermine whether the proposals can be treated as acceptable, particularly in relation to the development plan.

Based on details obtained from the Reports and Minutes of the Gloucestershire Economic Growth Joint Committee (GEGJC) it was noted in July 2016 that funding of up to £7.7m has been applied for as part of the GFirst LEP submission to the 'Growth Deal Round 3' bids for Local Growth Fund monies. This project (amongst others) was identified from Expressions of Interest by the promoters (Ecotricity) and selected following consideration by the LEP Board. The most recent update of November 2016 sets out the decisions on funding are still awaited, but that the bidding process is highly competitive. It was noted that the bid overall has scored lower than other areas in demonstrating the highest levels of private sector match-funding.

The existence of this bid and the implications whatever the outcome raises fundamental concerns. It is unclear whether funding to deliver dualling of the A419 can be provided should the bid fail. Subsequent questions include the timing of delivering any dualling; whether the "Eco-Park" scheme is viable in its own right including the cost of necessary obligations; and whether the "Eco-Park" element of the scheme is in any way required or beneficial in enabling development of the stadium facilities?

As well as seeking and obtaining answers to these questions Stroud District Council should fundamentally have regard to the role of the Local Enterprise Partnership in relation to plan-making.

National Planning Practice Guidance explains that Local Enterprise Partnerships are not subject to the requirements of the Duty to Cooperate, but are a prescribed body for the purposes of authorities preparing Local Plans. LEPs can play an important role in driving growth and securing funds, with joint objectives to ensure the successful delivery of policies for strategic growth. However, guidance also states that: "*Strategic Economic Plans are not part of, or a substitute for, the local plan for an area which guides development decisions, and it is important that they are not treated as such (our emphasis)*" (NPPG ID: 9-006-20160519).

A number of points are relevant. Firstly, there are no strategic policies that rely on the delivery of these application proposals in the current development plan. Secondly, the fact that LEPs are not bound by the Duty to Cooperate means that activities such as bidding for funds are not governed by the same degree of consultation and engagement to ensure consistency between authorities and with the strategic priorities for plan-making. Finally, in the context of plan-making Stroud District Council is in the early stages of reviewing its own plan and very little weight could be given to support from the LEP alongside this process. Equally, the role of the LEP is central to supporting the delivery of positive economic growth across a number of plans which are much more advanced such as at the M5 J9 and J10.

Similar issues were explored and essentially conceded by the LEP during the Examination of the current Local Plan. In their letter of 11 April 2014⁴ the LEP acknowledges that the Strategic Economic Plan is "by its very nature" aspirational; it does not deal with the specific growth in Local Plans; and does not focus

⁴ SDLP Examination Doc PSD6c

in detail on the specific impacts on each of the six Gloucestershire authorities. These concessions helped the Inspector for the SDLP conclude that the Local Plan provides an appropriate balance between jobs and housing.

The current reliance on the LEP to seemingly support the emerging proposals demonstrates the extent to which they are premature and inappropriate. As well as compromising existing committed development (such as the deliverability of employment land West of Stonehouse), the delivery of the site itself is uncertain and the balance between jobs and homes in the Local Plan would be fundamentally altered, in a location not identified for further strategic development.

An additional concern is that this approach is ultimately being used to reinforce the principle of development north of the A419 due to the “Eco-Park” element of the scheme. In reality, the revised information demonstrates that changes to land use (as well as the footbridge crossing) are necessary in any event to provide for car parking associated with the stadium. This will lead to the inevitable urbanisation of the area when in reality the timing (or even deliverability) of the employment elements is unknown. This may give little control over future development.

In the event that any delivery was to result from these application proposals as presented, it must be on the basis of providing the comprehensive scheme as presented. This would ensure consistent testing of outcomes and identification of required mitigation.

Specific Considerations from the Development Proposals

Further comment on these matters is reserved for future submissions upon the presentation of any further interpretation. In summary, Eastington Parish Council submits that the Further Environmental Information submitted to-date in essence generates significantly greater urbanisation along the A419 corridor and within the site itself (e.g. car parking, pedestrian crossings) and is predicated upon a narrow interpretation of the economic strand of sustainable development. This further exaggerates the degree of conflict with the objectives and policies of the development plan.

A fundamental conflict remains with the settlement pattern and local character in Eastington Parish and this cannot be overcome with revisions due to the overall scale and speculative, strategic nature of the development proposals. To this extent, the representations from William Morris College, Historic England, Conservation Officers at Stroud District Council and the Cotswolds AONB Management Board are generally supported.

The inclusion of the Character Areas associated with the Industrial Heritage Conservation Area (IHCA) (Chapter 10 of the FEI) and part of the Landscape Assessment is welcomed and to some degree represents consideration of local distinctiveness. It is therefore surprising, and disappointing, that far too little weight is given to the wider rural setting of the IHCA and its relationship with the wider settlement pattern and effect on heritage significance. Paragraph 7.27 of the FEI Chapter ‘Archaeology and Cultural Heritage’ asserts that neighbouring agricultural land contributes little to its historic significance; and that the setting of the canal does not contribute highly to its significance derived mainly from the historic route.

These views appear contrary to previous Appeal Caselaw considering the IHCA. The Appeal Decision for Land Adjoining Springhill House (PINS Ref: 3138313) is enclosed with this letter. This particularly explored the relationships between the wider rural landscape and the IHCA and other features of the

settlement pattern and local environmental character. Conversely at Paragraphs 7.33 and 7.46 the FEI dismisses these relationships.

The Appeal Decision explains how existing buildings “are viewed in the context of their landscape setting” (Paragraph 27) and that “extending suburban development into a rural area which would have an urbanising impact that would detract from the rural setting of both Eastington and Millend” would also reduce visual separation (Paragraphs 28 and 26). This assessment concluded that development would not preserve or enhance the IHCA.

Aside from the immediate impact on the IHCA, the application proposals will inevitably adversely affect local character and distinctiveness through their scale and geographic extent. This is further exaggerated by the extensive references made in the application material which refer to extending the built development already approved at Land West of Stonehouse.

Concluding Remarks

Eastington Parish Council, and those instructed to act on their behalf, anticipate making further detailed submissions on the information currently available to support the application alongside any further revisions provided. Without limitation, this is expected to focus on the impacts on local character and cultural heritage, the sustainability implications of strategic employment development in this location and the immediate local impacts and experience of any development outcomes.

Notwithstanding the significant and adverse effects that can be associated with the site in addition to the questions over delivery and viability of the component elements, the application proposals are premature and cannot conceivably support material considerations that would justify a departure from the adopted development plan. There are specific shortcomings in terms of assessing local impacts or securing mitigation or betterment for the immediately affected community.

The purpose of this letter, however, has addressed fundamental objections to the principal of the proposals that cannot be overcome by revisions. Fundamental conflicts with the adopted development plan cannot and must not be ignored in addition to the significant risk to future plan-making activity in terms of prejudicing future decisions on the relationship between jobs and housing.

Eastington Parish Council trusts that this letter reinforces the clear grounds on which the proposals should be refused, regardless of the further information which is anticipated from the applicant. The Parish Council would be glad to offer further assistance to Stroud District Council to assist with the understanding of local impacts.

Kind Regards,



Jon Goodall MA (Cantab) MSc MRTPI

Associate Director

Enc. A – Letter from Helix Transport Consultants to Gloucestershire County Council, 6 December 2016

Enc. B – Planning Appeal Decision - Land Adjoining Springhill House (PINS Ref: 3138313)