

## Part B – Please use a separate sheet for each representation

Name or Organisation: **Charterhouse Strategic Land**

3. To which part of the Local Plan does this representation relate?

### The Sustainability Appraisal Report for the Stroud District Local Plan Review

Paragraph  Policy  Policies Map

4. Do you consider the Local Plan is :

4.(1) Legally compliant	Yes	<input type="text"/>	No	<input type="text" value="X"/>
4.(2) Sound	Yes	<input type="text"/>	No	<input type="text" value="X"/>
4 (3) Complies with the Duty to co-operate	Yes	<input type="text" value="X"/>	No	<input type="text"/>

Please tick as appropriate

5. Please give details of why you consider the Local Plan is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Please see enclosed representation

Please see enclosed representation

(Continue on a separate sheet /expand box if necessary)

6. Please set out the modification(s) you consider necessary to make the Local Plan legally compliant and sound, in respect of any legal compliance or soundness matters you have identified at 5 above. (Please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please see enclosed representation

(Continue on a separate sheet /expand box if necessary)

**Please note** In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

**After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.**

7. If your representation is seeking a modification to the plan, do you consider it necessary to participate in examination hearing session(s)?

**No**, I do not wish to participate in hearing session(s)

**Yes**, I wish to participate in hearing session(s)

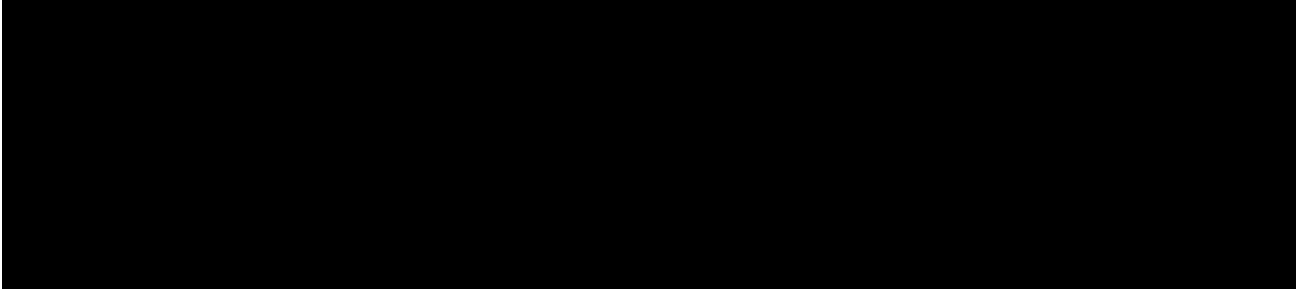
Please note that while this will provide an initial indication of your wish to participate in hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

The matters raised in this representation and with respect to other policies, paragraphs and objectives of the Local Plan together raise complex concerns as to the soundness of the Plan.

This will require detailed evidence to be presented to the Local Plan Inspector to ensure that the matters are fully discussed and properly considered, including the inter-relationships between matters, leading to appropriate modifications and changes.

**Please note** the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.



# Stroud District Council: Pre Submission Draft Local Plan Review (May 2021)

## Representation Concerning: the Sustainability Appraisal Report for the Stroud District Local Plan Review – Pre-Submission Draft

For and on behalf of: Charterhouse Strategic Land

July 2021

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### Introduction

1. Chilmark Consulting Ltd (CCL) are instructed by and write on behalf of Charterhouse Strategic Land (CSL).
2. CSL has an interest in land at Clattergrove in Painswick. The Site is situated to the north of Painswick immediately adjacent to the A46 Cheltenham Road<sup>1</sup>.
3. Representations have been submitted on behalf of CSL to Stroud District Council (SDC) at all of the earlier stages of the Local Plan Review in 2018, 2019 and in 2020.

### Representation

4. This representation is concerned with the **Sustainability Appraisal Report** for the Stroud District Local Plan Review – Pre-Submission Draft (May 2021) (the ‘SA’). It should be read in conjunction with CSL’s other submitted representations concerning the Local Plan Review.
5. The preparation of a Sustainability Appraisal is a formal legal requirement under Section 19(5) of the Planning and Compulsory Purchase Act 2004 (“PCPA”), giving effect to the strategic environmental assessment obligations under the Environmental Plans and Programmes Regulations 2004 (“the SEA Regulations”).
6. The SA, as an Environmental Report, must:

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<sup>1</sup> CSL’s separate representation concerning omission of their site from the Local Plan includes details about the site and a plan showing its location in Painswick

“identify, describe and evaluate the likely significant effects on the environment of– (a) implementing the plan or programme; and (b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme” (Regulation 12 of the SEA Regulations).

7. The scope of the Regulation 12(b) requirement to consider reasonable alternatives has been considered extensively by the Planning Court and appellate courts, including in *Friends of the Earth v Welsh Ministers* [2015] EWHC 776 (Admin); *R (RLT Built Environment Ltd) v. Cornwall Council* [2017] JPL 378, [40]-[57]; and *R (Spurrier) v. Secretary of State for Transport* [2019] EWHC 1070 (Admin); [2019] JPL 1163, [433]-[435], as followed and summarised most recently in *Flaxby Park v Harrogate BC* [2020] EWHC 3204 (Admin), [131]-[138]:

(1) A reasonable alternative is one that will, or sensibly may, achieve the objectives of the plan;

(2) It has long been established that there should be "*an equal examination of the alternatives which it is reasonable to select for examination*" (*Heard v Broadland DC* [2012] EWHC 344 (Admin)), [71] as followed in *Ashdown Forest Economic Development v SSCLG* [2014] EWHC 406 (Admin)).

(3) Whilst the process of assessing such reasonable alternatives be subject to narrowing, subject to the provision of clear and adequate reasons, a process that is arbitrary, unexplained and all the circumstances irrational will not give proper effect to the legislation;

(4) Further, whilst additional iterations and addenda / supplementary SA documents can be prepared during the Examination (*Cogent Land LLP v Rochford District Council* [2012] EWHC 2542 (Admin) [2013] 1 P & CR 11), it is imperative that these are subject to consultation and the overall process is transparent, enabling public participation at all stages.

8. SA is also a fundamental component of the evidence base for the purposes of section 19(2)(a) PCPA and NPPF 35 requirement of soundness. Irrespective of

whether an SA complies with the SEA Regulations, a clear practical defect in the approach adopted may reveal a fundamental soundness flaw that requires the plan be withdrawn or be subject to significant modification prior to adoption.

### **Sustainability Appraisal of the Development Strategy**

9. During the course of the Local Plan Review, various iterations of the SA have sought to assess the overall levels of housing and other growth proposed in the plan period.
10. Four potential growth options were considered at the Issues and Options stage of the Plan's preparation and the SA Report subsequently confirmed its recommendations in the SA Report accompanying the Emerging Strategy Local Plan (November 2018).
11. At that time the SA concluded and recommended a hybrid option combining elements of the four growth options; effectively a 'concentrated development' approach (Option 1) with the inclusion of growth at one / two growth points, smaller towns and larger villages. This hybrid was taken forward through the Local Plan Draft for Consultation (November 2019) and further appraised in the SA Report (November 2019).
12. The latest version of the SA (May 2021) reflects the Pre-Submission Local Plan and sets out its findings for the proposed development strategy Core Policies (DCP1, CP2), CP3, CP4, CP5 and CP6) in Section 4 (Table 4.4 and supporting text).
13. With respect to the scale and overall locations of housing growth Policy CP2 (Strategic Growth and Development Locations) is addressed in the SA from paragraph 4.63, et seq; and Policy CP3 (Settlement Hierarchy) from paragraph 4.82 onwards.
14. With respect to overall housing, services and economic growth the SA concludes (Table 4.4) that there are significant positive effects arising in relation to the SA Objectives of housing provision (SA1), supporting services and facilities (SA6), employment (SA16) and economic growth (SA17).

15. CSL object to the overarching SA conclusions on the development strategy because the SA appraisal relies upon a simplistic assumption that focusing large levels of development to a small number of large settlements sites will be the most sustainable approach as these are purported to be best able to provide sufficient infrastructure. Small settlements are, conversely, in the SA authors' view considered to be less able to deliver services, infrastructure or access to employment opportunities.
16. That assumption is un-evidenced. It is also incorrect, given that the benefits of larger scale settlement development inherently depend upon the ability of such new development to provide the necessary infrastructure to ensure it is actually sustainable; i.e. it requires a mitigation-led approach.
17. However, larger scale development (especially large urban extensions or new settlements) in turn requires the development of significant and costly new infrastructure with extended lead-in times prior to housing delivery. In reality, this entails lengthy time periods before necessary infrastructure is actually provided.
18. In adopting this approach the SA has failed to take account of the fact that the underlying demographic, economic, environmental, infrastructure capacity and sustainability conditions are very different across the individual Tier 2 (and other lower tier 3) settlements. This has not been addressed in the SA.
19. The SA further fails to reflect the importance of ensuring that future growth adequately supports smaller and more rural settlement vitality and viability reducing the potential for stagnation of these places, consistent with the aims of national policy.
20. In summary, the SA is therefore premised on a methodological approach that does not properly give effect to the SEA Regulation or national policy, in that it has pre-determined the sustainability benefits of the chosen strategy, in a manner which fails to take account significant environment effects, and other obvious material matters, including the complexity and timescale of infrastructure delivery.
21. This combined legal and soundness flaw is compounded by the next issue below.



### Lack of Assessment of Alternatives for Parish Clusters

22. The SA's assessment of the Parish Cluster strategies and 'Mini Visions', that establish sub-district level strategies for eight different parish cluster areas, is set out from paragraph 4.20 and in Table 4.3.
23. Paragraph 4.21 indicates that as the Parish Cluster strategies and visions are "*high level and aspirational in nature*" they are expected to have mostly positive or negligible effects in relation to the SA Objectives. Indeed Table 4.3 records that no significant positive or negative effects are expected. Paragraphs 4.22 et seq. then provide some further description and detail as to the conclusions reached for each Parish Cluster.
24. There are fundamental deficiencies in this Parish Cluster SA analysis, including:
  - a) the SA states that the vision and strategies for each Cluster area are aspirational. Yet the Plan itself refers to the issues, challenges and future vision for each Cluster area, and seeks to designate specific allocations and restrictive policies. It is therefore seeking to put in place a relatively detailed development framework at this stage;
  - b) there has, however, been no assessment of reasonable alternatives in terms of the levels of housing or economic growth within the Clusters, including as a reasonable alternative to the chosen strategy of the identified numbers in the allocations, for example providing further or different allocations within the settlements;
  - c) the SA is therefore silent on obviously material reasonable alternatives for delivering the Plan's objectives, contrary to Regulation 12(b);
  - d) the Cluster area analysis in the SA Report is also very superficial. There is no reference to reasonable alternative levels of future growth and the consequences, in terms of sustainability for such alternatives.
  - e) the only analysis of future growth in the SA is conducted in relation to the overarching development strategy (as set out above) and with respect to the performance of individual potential development sites.

25. For example, the sub-section assessing The Cotswolds Cluster is set out in paragraphs 4.50 – 4.52 of the SA. At paragraph 4.50 the SA states that:

*“The mini-vision for the Cotswold Cluster states that development will be limited mainly to Painswick to meet the housing needs of the area as well as improve the vitality of the town centre and local services. Smaller scale development is also to be supported at the smaller villages in this part of the District to respond to locally-identified needs. It is also set out in the vision that the Cotswold ‘brand’ is of key importance economically to the region, making it important to cater to high quality tourism needs that are in line with the relative affluence of the region. However, the vision also explains that inclusiveness in this area is important so that all residents feel the benefits of increased tourism. Furthermore, the vision sets out that rural businesses have a valued role in providing local employment opportunities for the area. As such, minor positive effects are expected in relation to SA objectives 1: housing, 3: social inclusion, 5: vibrant communities, 6: services and facilities, 16: employment and 17: economic growth”.*

26. CSL’s separate objections to the Pre-Submission Local Plan (particularly concerning Section 3.8 - Cotswold Cluster Strategy; and Policy CP2 – strategic growth and development) demonstrate that there is **no evidence available** that shows what local housing needs of the Cotswolds Cluster area actually are, or that they would be met by a single proposed residential allocation (PS41 – Washwell Fields).
27. The SA does not contain any justification or evidence to support its analysis in paragraphs 4.50 – 4.52 or in Table 4.3 that there will be minor positive effects in relation to SA Objectives arising for the Cotswolds Cluster.
28. The position is, in fact, exactly the opposite, when the Plan objectives are properly considered. The strategy promotes a seriously compressed level of housing delivery in this Cluster area (and others) in a manner that would lead to significant negative effects in respect of all six objectives set out above.

29. CSL therefore consider that the adoption of the Local Plan on the basis of the SA as presently drafted, would breach the SEA Regulations. Reasonable alternatives have simply not been assessed at all, contrary to Regulation 12(b).
30. In any event, there are severe soundness defects. The Report does not show that either:
  - the Cluster area visions and strategies are the most appropriate; or
  - that the Plan will deliver any of the sustainable development effects described.
31. The SA offers no support or assistance in understanding how the Local Plan's Parish Cluster area strategies and min-visions would perform, contrary to the expectations of NPPF 35a to d.

#### **The Development Effects of Individual Sites on Settlements**

32. Section 5 of the SA Report considers the effects of proposed allocation sites. From paragraph 5.63 on the SA assesses the potential effects of development on individual settlements in the District.
33. With respect to Painswick (where CSL's land interest is situated) paragraph 5.68 of the SA concludes that the Local Plan:

*“Allocates a tailored level of housing development at these settlements which will help to sustain and improve existing services and facilities and address the issues highlighted”.*
34. It continues in the same paragraph to state that:

*“the sites allocated at Minchinhampton and Painswick [PS41 – Washwell Fields] are included in the Pre-Submission Draft Local Plan to address local housing needs within the AONB...”.*
35. The SA is based on a serious error in concluding that the level of housing growth proposed in Painswick will address housing needs in the AONB (or for the Cotswolds Cluster area) or sustain and improve existing services and facilities. It

is evident that the level of housing proposed is so limited that it will have no such positive effect, indeed the effects of such limited growth will be negative in respect of population, housing affordability and transport patterns.

## Conclusion

36. In summary, the Local Plan is not sound and the SA Report is legally deficient:
- a) The SA does not assess the reasonable alternatives for housing growth taking into account the Plan's objectives and strategies for the Parish Clusters in conjunction with the overall development location strategy for settlements across the District, contrary to Regulation 12(b).
  - b) The reasonable alternatives for the growth of individual settlements within the Parish Clusters have not been referred to or evaluated in an equivalent or comparable way in order to derive the best option and the choice made.
  - c) Such reasonable alternatives include alternative proposals which would secure the objectives of the Local Plan Review within the plan, i.e. reasonable alternatives are not limited to wholly different plans but can include sensitivities in terms of the amount, distribution or types of housing (and other) growth. Yet this simply has not been done.
  - d) The SA does not describe in any detail (including what evidence was used) how the assessment of the effects of the Plan's strategy would derive the positive impacts ascribed for the Parish Cluster areas, including the Cotswolds Cluster.