

# **Report to Gloucester City Council**

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an Inspector appointed by the Secretary of State

Date 9 November 2022

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Gloucester City Plan 2011-2031**

The Plan was submitted for examination on 20 November 2020

The examination hearings were held between 11 May 2021 and 9 June 2021

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## **Abbreviations used in this report**

GCP	Gloucester City Plan 2011- 2031
HMOs	Houses in Multiple Occupancy
JCS	Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031
LDS	Local Development Scheme
MLP	Minerals Local Plan for Gloucestershire 2018- 2032
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SALA	Strategic Assessment of Land Availability
WCS	Gloucestershire Waste Core Strategy 2012

## **Non-Technical Summary**

This report concludes that the Gloucester City Plan 2011-2031 provides an appropriate basis for the planning of the City, provided that a number of main modifications [MMs] are made to it. Gloucester City Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared a schedule of the proposed modifications and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a seven-week period. In some cases, I have amended their detailed wording and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering the sustainability appraisal and habitats regulations assessment and all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Ensuring the plan is consistent with the higher tier plans;
- Demonstrating a positive approach towards development;
- Ensuring the policies of the plan do not undermine the deliverability of the plan;
- The deletion of policy references which could confer development plan status on supplementary planning documents and other documents which are not part of the plan;
- Deletion of site allocations which are unavailable for development or have since become commitments, updating the capacity of various sites, with consequential consideration of overall housing and employment provision;
- Ensuring the plan is consistent with the changes made to the Use Classes Order;
- Clarifying how the plan is to be monitored;
- Providing appendices setting out the policies of the Adopted Gloucester City Plan (1983) that are to be superseded;
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the Gloucester City Plan (GCP) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework 2021 (paragraph 35) makes it clear that, in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. The GCP 2011- 2031, submitted in November 2020 (CD001) is the basis for my examination. It is broadly the same document as was published for consultation in November 2019.
3. However, a number of modifications to the plan, which had not been subject to formal consultation, were included within the submission documents<sup>1</sup>. Some of these were corrections of grammatical errors, or factual updates. Where these would result in no substantive impact, I have accepted these as part of the submission plan<sup>2</sup>. The other remaining proposed amendments, submitted by the Council, were treated in the same way as any other proposed changes tabled by anyone else.

## Main Modifications

4. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any MMs necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1, MM2** etc, and are set out in full in the Appendix.
5. Following the examination hearings, the Council prepared a schedule of proposed MMs and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for seven weeks. I have

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<sup>1</sup> CD10a- Schedule of proposed changes.

<sup>2</sup> CD010e- Additional modifications to be considered as part of the submitted plan.

taken account of the consultation responses in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the MMs and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has been undertaken. Where necessary I have highlighted these amendments in the report.

## **Policies Map**

6. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Pre-Submission GCP Policies Map as set out in (CD002).
7. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map. In addition, there are some instances where the geographic illustration of policies on the submission policies map is not justified and changes to the policies map are needed to ensure that the relevant policies are effective. Conversely there are cases where policies which have a geographical application have not been defined on the Policies Map. Therefore, consequential amendments to the policies map are required.
8. These further changes to the policies map were published for consultation alongside the MMs, and Policies Map Addendum. In this report I identify any amendments that are needed to those further changes in the light of the consultation responses.
9. When the Plan is adopted, in order to comply with legislation and give effect to the Plan's policies, the Council will need to update the adopted policies map to include all the changes proposed in the Policies Map Addendum and the further change published alongside the MMs.

## Context of the Plan

10. The GCP 2011- 2031 follows the administrative boundary of Gloucester City. It is proposed to replace the saved policies of the adopted Gloucester City Local Plan (1983)<sup>3</sup>. On adoption, it will form the development plan, together with the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011- 2031 (JCS) (DP001); the Minerals Local Plan for Gloucestershire 2018- 2032 (MLP) (DP004); and the Gloucestershire Waste Core Strategy 2012 – 2027 (WCS) (DP005) all of which have been adopted.
11. The GCP implements the policies of the JCS. It has not been any part of my examination to consider matters which fall within the remit of the ongoing review of the JCS, or to re-examine matters which have previously been determined following the detailed examination of the adopted JCS.
12. There has been a time lag between the adoption of the JCS in December 2017 and the submission of the GCP in November 2020. In addition, the original, targeted, 'immediate review'<sup>4</sup> of policies within the JCS, proposed by the Inspector who examined the JCS, has now been broadened to include all the policies within the JCS. This review remains ongoing. However, none of the above alters the narrow remit of the GCP and my examination of its policies.
13. Consequently, my role has been limited to determining if the policies of the plan are sound with reference to consistency with the policies of the JCS, the MLP and the WCS, as well as where necessary, given that the JCS itself has been found to be consistent with the National Planning Policy Framework, consistent with national policy, and whether they are justified by evidence and effective.

## Public Sector Equality Duty

14. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the provision of traveller sites to meet need; accessible and adaptable housing; housing to provide for specialist accommodation; accessible and inclusive

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<sup>3</sup> With the exception of the retail policies which have not been superseded by those of the JCS. See page 134 – 135 of Appendix 1 of the JCS

<sup>4</sup> Paragraphs 271- 273 of the JCS EIP Inspector's Report (DP003)

design; and access to suitable toilet provision. My findings are set out in subsequent chapters of this report.

## **Assessment of Duty to Co-operate**

15. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the GCP's preparation.
16. The plan's remit, as proposed to be modified by the MMs set out below, is restricted to the implementation of the strategic objectives of the JCS, which has already been demonstrated to have been prepared in accordance with the duty to co-operate. Nonetheless, I have been provided with further evidence within the Duty to Co-operate Statement<sup>5</sup> of on-going co-operation prior to the submission of the plan on strategic matters, such as providing for Gypsies, Travellers and Travelling Showpeople; housing; transport; and ecological matters.
17. Overall, I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met, in as far as it relates to this plan.

## **Assessment of Other Aspects of Legal Compliance**

18. Following delay to the progress of the GCP, a revised Local Development Scheme (LDS) was published in July 2022 (CD009) replacing the LDS dated March 2021. The GCP was prepared in accordance with the latest version of the scheme.
19. The Council has taken an iterative approach to the production of the GCP with a staggered consultation process prior to the formal Regulation 19 consultation. This took place in the autumn of 2019. It was extended over the Christmas period into the new year, to enable participants to access all the relevant documents, as not all the evidence had been available on the website.
20. The consultation on the proposed MMs, together with the consequential amendments to the Policies Map, took place from 16 May 2022 to

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<sup>5</sup> CD007 Gloucester City Plan Duty to Co-operate Statement

4 July 2022. Every stage of the consultation has taken place in compliance with the Council's Statement of Community Involvement published in 2015 (CD008).

21. The Council carried out a sustainability appraisal of the GCP, prepared a report of the findings of the appraisal, and published the report along with the plan and other submission documents under regulation 19.
22. The Council used similar objectives to those previously used in the sustainability assessment of the JCS. Given the extent of Gloucester's housing requirements, all sites, considered to be reasonable alternatives, were the subject of an SA.
23. However, this did not result in all sites which came forward to the Council through the call for sites being tested through the original SA, as some were not taken forward through the Strategic Assessment of Land Availability (HOU010).
24. The SA was updated to assess the MMs. In addition, to ensure the SA was both robust and comprehensive, I asked that a further site be tested as part of the SA process. This was undertaken but did not alter the conclusion that the site was not a reasonable alternative, and therefore, was unsuitable to be allocated within the GCP.
25. Moreover, as set out below, I have found that the quantum of housing development to be provided within Gloucester City is consistent with the urban capacity for Gloucester set within the JCS. Consequently, for the GCP to be found sound, there is no requirement to allocate additional sites. Therefore, there is no requirement to revisit those sites which were not considered to be reasonable alternatives within the SALA.
26. As submitted, the GCP does not set out which policies from the existing development plan are to be superseded. Therefore, in order for the plan to comply with Reg 8 (5) of the Town and Country Planning (Local Planning) (England) Regulations 2012 **MM92** is required.
27. The Habitats Regulations Appropriate Assessment Screening and Appropriate Assessment Report July 2019 (CD006) sets out that without mitigation, the policies of the GCP may have some negative impact on the Cotswold Beechwoods Special Area of Conservation (SAC) and the

Severn Estuary SAC/ Special Protection Area and Ramsar. However, subject to project level Habitat Regulation Assessments together with appropriate mitigation where necessary, secured through the GCP, the policies and projects envisaged within the GCP will not result in a significant effect on the relevant European sites.

28. Some of the policies within the GCP are described as 'strategic'. Consequently, there is ambiguity as to how they relate to the adopted policies within the JCS and are therefore consistent with the development plan as a whole. As proposed to be modified (see later in my report) none of the policies within the GCP would supersede, or go further, than the parameters set within the adopted policies of the JCS. Therefore, the GCP would comply with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
29. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. Examples include policies to promote a positive approach to renewable energy generation, the encouragement of alternative forms of transport to the car, and its creative approach towards flood prevention.

## **Assessment of Soundness**

### **Main Issues**

30. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified 10 main issues upon which the soundness of this plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

### **Issue 1 – Whether the overall approach of the GCP is consistent with the JCS, the WCS, the MLP and national policy?**

31. The earliest the GCP could reasonably be adopted would be the autumn of 2022. The plan period reflects that of the adopted JCS which runs to 2031. This comes to 9 years. Therefore, the plan period is

considerably below the minimum timeframe of 15 years for strategic policies referred to within the Framework.

32. Moreover, as set out above, the GCP seeks to deliver the JCS locally. However, several of the policies of the GCP are described as being strategic in nature<sup>6</sup>. This causes confusion as to how they relate to the strategic policies of the JCS. This is because it is unclear whether the policies of the GCP are intended to duplicate or replace the policies of the JCS, which itself is under review. Moreover, it is not consistent with the advice in paragraphs 20- 23 of the Framework. In addition, it is contrary to the approach set out in the LDS where the GCP is to implement the policies of the JCS.
33. Consequently, for the GCP to be consistent with national policy, the JCS and to be effective, MMs **MM1, MM2, MM3** are required to delete references to any policy within the GCP as being strategic, and to clarify the status of the JCS, including an update on its review.
34. In addition, as Policy A2 of the GCP increases the proportion of affordable housing required, over and above that set out in Policy SD 12 of the JCS, it is inconsistent with the JCS and main modification **MM15** is required.
35. Once adopted, the GCP will form part of the development plan, including the JCS, WCS and the MLP. To clarify the relationship between the plans, an explanation is required of how the plans interrelate. Therefore, to ensure effectiveness, each policy of the GCP should be cross referenced to the parent policy within the appropriate higher tier plan, **MM89, MM90**.
36. As drafted, Policy C6 is not effective nor consistent with Policy WCS11 of the WCS. This is because it does not clearly articulate how potential developments, within a cordon sanitaire surrounding the Netheridge Sewage Treatment Works, are to be determined in relation to odour nuisance. Nor does it specify the importance of safeguarding the operation of the waste treatment plant. Consequently, **MM31** is required to make the policy effective and consistent with the WCS.

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<sup>6</sup> Table 2 Gloucester City Plan 2011- 2031- Strategic Policies p 135 of the GCP

37. Main modifications **MM4, MM5, MM68, MM69, MM70, MM71, MM72, MM73, MM74, MM75, MM76, MM77, MM78, MM79, and MM80** are required to ensure that the vision of the GCP corresponds with that of the waste and minerals plans, and individual site allocation statements reference relevant minerals and waste matters.

## **Conclusion**

38. Subject to the MMs identified above the GCP's overall approach is consistent with the JCS, the WCS, the MLP and national policy.

## **Issue 2 – Whether the GCP's approach to housing requirements and supply is positively prepared, justified, effective and consistent with the JCS and national policy?**

### **Housing requirement**

39. The housing requirement for Gloucester of at least 14,359 new homes is set by Policy SP1 of the JCS, adopted in December 2017. This is a strategic policy which has already been examined and found sound. Any reappraisal of it sits firmly within the locus of the ongoing JCS review and is out of the scope of the GCP.
40. Similarly, consideration of whether Policy SP2 of the JCS, which refers to a cumulative number of, at least 13,287 dwellings being provided to meet the needs of Gloucester City, both within and outside of Gloucester, remains appropriate is outside the parameters of the GCP. Moreover, Policy REV1 of the JCS, sets out that the shortfall between the two figures of 1,072 dwellings is to be addressed through a wider review, separate from the GCP.
41. The JCS provides the strategic policies with which the GCP must be consistent. Table SP2b of the JCS sets out in detail the quantum of development and its apportionment amongst the various districts, including the urban capacity of Gloucester which is defined at 7,772 dwellings. The supporting text of the JCS explicitly sets out that the role of the GCP is to bring forward allocations to deliver the district's identified capacity<sup>7</sup>.

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<sup>7</sup> 3.2.8 of the JCS

42. Notwithstanding the narrow remit of the GCP, in order for the GCP to be consistent with the JCS and Framework, which takes a positive approach to the delivery of housing, MMs are required both within the body of the supporting text of the GCP and in relation to individual allocations, to ensure that the wider housing figures, including the urban capacity figure of 7,772 dwellings are not treated as maxima (**MM6, MM10, MM57, MM58**).

### **Specialist housing**

43. Specialist housing is required to ensure that the needs of groups with specific housing needs can be addressed. Nonetheless, concentrations of particular types of housing may have adverse impacts. Policy A5 is not effective as drafted, as it does not take a positive approach to catering for specialist demands, nor does it articulate clearly how impacts of development are to be considered, including the requirement for affordable housing from developments that fall within Use Class C3. Therefore, **MM17** is required.
44. Gloucester has significant numbers of planning applications for Houses in Multiple Occupancy (HMO) and a specific approach to determining applications has been put forward within the GCP. However, it sits within the supporting text. Therefore, to ensure effectiveness **MM14** is required. This provides a discrete policy approach to the determination of applications for HMOs. In addition, Gloucester is a university town. **MM16** is necessary as Policy A4-Student Accommodation as worded, is not effective as it is not flexible and excludes specific categories of students. Nor does it require accommodation to be easily accessible to the educational establishments.
45. Policy A6 of the GCP relates to accessible and adaptable homes. However, the proportion of housing that should meet M4 (2) of the Buildings Regulation has not been sufficiently justified in relation to an evidenced need for such properties within Gloucester. Moreover, the requirement of 50% of all housing to meet M4 (2) would adversely impact on the viability of developments coming forward and the overall deliverability of the GCP. In addition, there is ambiguity in how wheelchair user dwellings, M4 (3) are to be allocated, and where exceptions to the provision of the standards are appropriate. As such, **MM18** should be made to ensure that the policy is effective and justified. Similarly, for Policy F6, relating to Nationally Described Space Standards, to be effective, **MM49** is required to set out when exceptions to the policy are acceptable.

46. The Framework requires policies to reflect the needs of those who wish to commission or build their own homes. Policy A7 of the GCP, requires to be amended, through **MM19**, to ensure that the policy is effective by making it clear on what basis developers are required to make available plots for custom or self- build.

## **Housing supply**

47. To be consistent with Policy SP2 of the JCS the GCP must provide for at least 7,772 dwellings.
48. I have carefully considered whether the individual housing allocations, including where they are for a mixture of uses, within the GCP are justified, effective, and consistent with the JCS and national policy, including whether the individual sites have been underpinned by proportionate evidence.
49. Development has commenced at the King's Quarter development and land at Rea Lane (SA08 and SA12). Therefore, the sites are no longer available. Consequently, for the GCP to be effective, these allocations should be removed through **MM59, MM64, and MM65**.
50. In addition, the capacity of the allocated sites at the former Prospect House, the former Wessex House, and land at the Great Western sidings (SA03, SA04 and SA05), has been demonstrated by the site promoters to be overly conservative and should therefore be increased. Conversely, due to changes in circumstances, the amount of housing considered to be reasonable coming forward should be reduced at Jordan's Brook House (SA18).
51. In the interests of effectiveness, **MM59, MM60, MM61, MM62, MM63** are required to reflect this alteration in the potential capacity of sites to contribute to the housing supply. Where necessary the policies map should be amended accordingly to reflect any consequential amendments to the geographical application of the policy, and in the case of the boundary of the former Prospect House, this will require further alteration to remedy a technical drafting error.
52. Following these MMs, 920 dwellings are allocated through the policies of the GCP. This figure excludes 30 dwellings at SA02 Barnwood Manor, which has a planning permission and is therefore counted as a commitment.

53. Since the GCP was submitted, there have been changes to the numbers of homes built and sites with planning permission. Consequently, the GCP as submitted is not effective and needs to be amended thorough **MM6**, to reflect the situation as of 31 March 2021<sup>8</sup>. This includes 5,070 completions, and 1,769 non-strategic commitments. I have corrected a calculation error relating to the shortfall within the consultation schedule.
54. Concerns were raised in relation to the contribution of 512 dwellings to the housing supply from windfall housing. However, the windfall assumption of 64 dwellings per annum has already been agreed as part of the examination of the JCS. As such, it is not for me to re-examine this figure.
55. Taking into account the proposed MMs set out above, and the updated figures, together with a site on the brownfield register which contributes 92 dwellings, these total some 8,363 dwellings.
56. This figure clearly demonstrates that with the recommended MMs the GCP comfortably meets the urban capacity figure of 7,772 dwellings required by Policy SP2 of the JCS. This provides flexibility were windfalls not to come forward at the rate envisaged, or if some of the allocations were not delivered within the plan period.
57. If the figure of 8,363 dwellings is added to the other strategic allocations and urban extensions, including those outside of Gloucester's administrative boundary this comes to some 13,314 dwellings. Therefore, the figure of 13,287 dwellings to be provided for Gloucester's needs referred to within Policy SP2 of the JCS is exceeded.
58. I have found that with MMs, the GCP has identified land which together with commitments and completions comfortably meets the urban capacity figure identified in the JCS and for which the GCP is tasked with making provision. In addition, it meets the 13,287 figure referenced in criterion 2 of the Policy SP2.
59. However, to ensure that the capacity figure of 7,772 dwellings is not interpreted as a cap on development, **MM9** takes a positive approach

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<sup>8</sup> I note that this is not the most recent monitoring period. However, the Council was the victim of a significant cyber- incident which seriously impacted on the Council's access to housing records.

to windfall housing where consistent with the policies of the development plan as a whole.

60. This is particularly important in an historic urban context such as Gloucester City, where the positive and creative approach to decision making referenced in paragraph 38 of the Framework is required, as windfall sites may be difficult to develop, take a significant time, and require considerable joint working to bring forward as regeneration projects<sup>9</sup>.

### **Five-year housing supply**

61. In common with my colleagues, who examined both the Tewkesbury and Cheltenham Local Plans which are the sister plans to the GCP, whether Gloucester can demonstrate a five-year supply of deliverable housing land is not of direct relevance to my examination, given the limited role that the allocations in this plan have to Gloucester's wider housing supply. Nonetheless, using the best available evidence it appears that the Council continues to be able to maintain a five-year deliverable housing land supply (EXAM 27).
62. The GCP as submitted does not include a housing trajectory. For the plan to be found effective, **MM6**, **MM10** and **MM11** are required to include a housing trajectory within a separate appendix, together with an accurate calculation of the housing supply as at 31 March 2021.

### **Conclusion**

63. Subject to the MMs identified above the GCP's approach to housing requirements and supply is effective and consistent with the JCS and national policy.

### **Issue 3 – Whether the GCP's approach to housing requirements and supply for Gypsies and Travellers and Travelling Showpeople is consistent with the JCS and national policy?**

64. The housing requirement for Gypsies and Travellers and Travelling Showpeople for Gloucester is set out within the supporting text of Policy SD13 of the JCS. The two gypsy and traveller pitches referenced over the plan period are for gypsies and travellers who are non-travelling households and, as such, do not meet the requirement

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<sup>9</sup> Exam 18- Delivering challenging sites.

of Annex 1 of the Planning Policy for Traveller Sites. Consequently, the requirement is zero in respect of gypsies and travellers that meet that definition.

65. The GCP does not set out a five-year supply of deliverable plots for Travelling Showpeople. However, there is an identified requirement for 8 plots for Travelling Showpeople who are known travelling households. There may be further demand for another 8 plots for travelling showpeople whose status is not known.
66. I am confident that the Council is positively working with its neighbours to provide sites and has rigorously explored potential sites within Gloucester. In any event, Policy SD13 of the JCS sets out criteria for determining proposals for new sites.
67. Nonetheless, **MM8**, and **MM10** are required to make explicit the Council's on-going commitment to working with its neighbours, and to taking a positive approach to the provision of sites. **MM12** sets out housing trajectory and for the avoidance of doubt, makes explicit that the GCP does not provide a five-year supply of deliverable sites for Travelling Showpeople.
68. Very late in the examination process, at the time when the Council was fact checking the report, the Court of Appeal issued the Smith v SSLUHC & Ors [2022] EWCA Civ 1391 judgment <sup>[1]</sup>. I have taken this judgment into account. It does not alter my conclusion above, which reiterates the requirement for continued joint working. Any consequential implications of this judgment to the numbers of plots, or pitches, required would be most appropriately considered under the aegis of the review of the JCS.

## Conclusion

69. Subject to the MMs identified above the GCP's approach to housing requirements and supply for Gypsies and Travellers and Travelling Showpeople is consistent with the JCS and national policy.

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<sup>[1]</sup> 31 October 2022.

#### **Issue 4 – Whether the GCP has been positively prepared, justified, effective and consistent with the JCS and national policy in relation to the provision and protection of land for employment and town centre uses?**

70. The employment land requirement for the JCS area has not been disaggregated to the relevant local authority area. However, in the interests of clarity the capacity for employment land within Gloucester has been included within the GCP.
71. I have carefully considered whether the sites within the GCP identified for employment uses, together with the relevant mixed use allocations, are justified, effective, consistent with the JCS and national policy, and underpinned by proportionate evidence.
72. Amendments are required to reflect that the landowner of Lynton Fields (SA07) has made it clear that the site is not available for employment uses; land adjacent to Secunda Way (SA22) has permission for residential use, and that land at King's Quarter (SA08) is under development. This will require amendments to the policies map.
73. As such, the revised employment supply capacity should be updated with reference to the JCS; the levels of employment land should be expressed as a minimum; and the site allocations identified above deleted through MMs **MM6, MM7, MM20, MM57, MM59, MM64, MM66, MM67**.
74. However, I have found that SA09, Former Quayside House, Blackfriars, SA10 former Fleece Hotel/ Longsmith Street Car Park, SA17 Land south of Triangle Park, and SA21 Part of West Quay, The Docks are sound subject to MMs identified below.
75. Main modifications, MM21, **MM22, MM23, MM24, MM59**, and **MM83**, and **MM88** are required to improve the effectiveness of the text and to update references to take into account the changes to the Use Classes Order in 2020, with particular application to employment and town centre uses.
76. Policy B6 relates to the protection of public houses. However, to ensure effectiveness, main modification **MM26** is required to move policy criteria from the supporting text into the upper-case policy and to include reference to community engagement.
77. Policy SD2 of the JCS provides the retail policy framework for Gloucester, including the identification of primary and secondary

frontages, together with the retail policies of the Gloucester City Local Plan which have not been superseded by those of the JCS. Therefore, the GCP does not address retail issues.

## **Conclusion**

78. Subject to the MMs identified above the GCP has been positively prepared, justified, effective and consistent with the JCS and national policy in relation to the provision and protection of land for employment, and town centre uses.

## **Issue 5 – Whether the policies relating to flood risk and wider water management issues are effective and consistent with the JCS and national policy?**

79. Gloucester has been identified as a Flood Risk Area by the Environment Agency. It is affected by both tidal and fluvial flows.

80. Therefore, it is of great importance that the policies of the GCP must take a robust approach to meeting the challenges of flooding. All of Gloucester's watercourses are considered to lack capacity during rainfall events. As such, to be effective the policies of the plan are required to take into account the long-term implications for flood risk.

81. Policies E5 Green Infrastructure- Building with Nature, and E6 Flooding, Sustainable Drainage and Wastewater, should be modified to take a creative and holistic approach to flood management using opportunities available from new developments and exploit existing and proposed green and blue infrastructure. Where necessary, this will require financial, or contributions in kind from developers where there is an increase in flood risk either on-site or elsewhere. In addition, appropriate, specific, evidence-based mitigation and construction methods should be utilised within, and, where appropriate, outside of developments, including contributions to flood warning systems where necessary. To ensure that the geographical application of the policy is clearly articulated amendments are required to the Policies Map with regard to Green/Blue Infrastructure.

82. In addition, Gloucester falls within the remit of the Marine Management Organisation. Therefore, any development proposals should consider the South-West Marine Plan and Marine Policy Statement.

83. Consequently, to ensure that the policies of the GCP are consistent with national policy, and the JCS, as well as being effective, the following MMs: **MM36, MM41, MM42, MM43, MM82, and MM85** are required.

## **Conclusion**

84. Subject to the MMs identified above the policies relating to flood risk and wider water management issues are effective and consistent with the JCS and national policy

## **Issue 6 – Whether the GCP is effective and consistent with the JCS and national policy in relation to its approach in enhancing and conserving the built, natural and historic environment, and addressing climate change?**

### **Natural environment**

85. There is considerable duplication between policies E1 and F2 of the GCP, together with Policy SD6 of the JCS. Therefore, to ensure clarity of purpose and that policies are unambiguous **MM37** is required to delete Policy E1, and **MM46** is required to make the Policy F2 more effective through amendments.
86. To protect and enhance biodiversity, amendments are required to Policies F3, and F5. These are to ensure that there are not inadvertent adverse consequences to wildlife from developments, including small scale proposals, such as the use of inappropriate lighting, or the closing off of a route for wildlife. As such, to ensure that the policies are effective and consistent with the Framework **MM47** and **MM48** are required. Conversely, references to green roofs/walls within the Site Allocation Statements for sites SA03 (Former Prospect House) and SA16 (Land off Lower Eastgate Street) are overly prescriptive and unnecessary. Consequently, **MM81** and **MM86** are required to delete those references.

### **Built environment**

87. Policies D4, relating to shopfronts, shutters and signs, together with Policies, F1- Materials and finishes and G6- Telecommunications are overly prescriptive and do not provide a clear expectation of design outcomes without preventing appropriate innovation or change.

Moreover, the supporting text to Policy G6 is inconsistent with paragraph 118 of the Framework, which specifically excludes reference to health concerns.

88. Consequently, **MM35**, **MM45**, and **MM55** are required to alter the wording of those policies, to make these policies effective and consistent with the Framework.

### **Historic environment**

89. The GCP takes a positive approach to the conservation and enjoyment of the historic environment. Nonetheless, Policies D1 and D2 which set out policies for the determination of applications for designated and non-designated heritage assets are not consistent with paragraphs 199 and 201 of the Framework. Therefore, **MM33** and **MM34** are required.

90. The Gloucester Docks and Canal are of great historic significance. Policy B4- Development within and adjacent to the docks, requires additional text within the policy to ensure that any proposals take a positive approach to the existing heritage assets. As such, **MM24** needs to be made for the GCP to be effective.

### **Climate change**

91. **MM50** is required to make the GCP effective by emphasising the importance of climate change as an issue which runs through the GCP, consistent with both the JCS and national policy.

### **Conclusion**

92. Subject to the MMs identified above the GCP is effective and consistent with the JCS and national policy in relation to its approach to enhancing and conserving the built, natural and historic environment and addressing climate change.

**Issue 7 – Whether the GCP is justified, effective and consistent with the JCS, and national policy in relation to its approach towards promoting healthy, safe and well-designed mixed communities?**

93. The Framework sets out the objective for policies to achieve healthy, safe, and inclusive places. The GCP takes a positive approach to realising this.
94. However, to be effective a number of MMs are required. These include **MM13** to Policy A1, relating to effective and efficient use of land and buildings, to make explicit that the living conditions of all those affected by housing development are protected. To ensure public areas are designed to be safe, **MM47** is required to make Policy F3 effective.
95. In addition, hot food takeaways can cause issues of disturbance for nearby communities, and their availability can influence health outcomes. The wording of Policy C4 requires tightening to ensure that the criteria are effective, and that the use of a 400 m exclusion zone around schools does not unreasonably prevent the operation of legitimate businesses. Therefore, **MM29** is necessary.

## **Conclusion**

96. Subject to the MMs identified above the GCP is justified, effective and consistent with the JCS, and national policy in relation to its approach towards promoting healthy, safe and inclusive communities.

## **Issue 8 – Whether the development proposed within the GCP is sufficiently viable to enable the delivery and implementation of the spatial requirements of the JCS?**

97. A broad viability assessment of the overarching policies of the JCS has already been undertaken as well as detailed consideration under the CIL examination. Consequently, the broad quantum of development proposed for Gloucester should be considered to be viable taking into account the strategic policies of the JCS. Nonetheless, the detailed development management policies of the GCP have the potential to impact on the broad viability of development within the locus of the GCP.
98. Further viability work was undertaken by the Council's viability specialists to accompany the submission document to demonstrate that the policies of the GCP would not undermine the deliverability of the GCP<sup>10</sup>.

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<sup>10</sup> VIA002

99. During the examination, I asked that additional testing was undertaken to the typologies<sup>11</sup> (EXAM 8B). This included the build costs/ sales values and CIL rates as per the original viability work. A reduced affordable housing requirement consistent with that defined by the JCS policy was tested, as was an increase in the density of housing at SA05, changes to the tenure mix reflecting the most up to date Local Housing Need Assessment, a S106 obligation of £3,250, a revised SAC contribution reflecting the most up to date needs, Electric Vehicle chargers at 50% of all dwellings, 50% of market homes to be built to accord with M4 (2) of the building regulations, and 4% of affordable homes to category M4 (3), and de minimis, water efficiency costs at £50 per home. This demonstrated that most of the sites allocated for development were deliverable. However, a number of brownfield typologies in low value areas were shown as not being viable, together with four allocations (SA02 land at Barnwood Manor, SA13 former Colwell Youth and Community Centre, SA15 land south of Winneycroft allocation and SA18 Jordan's Brook House), totalling 100 dwellings.
100. Further sensitivity testing was run which demonstrated that the imposition of Nationally Described Space Standards had a negligible impact on viability. However, a reduction in the proportion of homes constructed at level M4 (2) of the building regulations, from 50% of new housing to 25% made a positive difference to viability for allocated sites SA02, land at Barnwood Manor and SA18, Jordan's Brook House, although the other two sites remained theoretically unviable. Moreover, this resulted in almost all typologies for windfall developments in low value areas becoming viable.
101. I am aware of an element of uncertainty regarding the imposition of higher planning contributions towards schools and the recent changes in building regulations in relation to energy efficiency and electric car charging. However, I have previously set out that MMs are required to remove Policy A2 which sets a higher affordable housing requirement than that contained within the JCS, and to reduce the proportion of houses which must meet level M4 (2) of the building regulations. Consequently, I am confident overall, that the viability testing broadly demonstrates, subject to **MM15** and **MM18**, both of which reduce the policy costs of the plan, there is the potential to deliver higher contributions, if deemed reasonable and necessary and directly related to the development.
102. In any case, many of the allocations within the GCP have been granted planning permission or are on sites where the vacant building credit would reduce the requirement to provide affordable housing.

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<sup>11</sup> EXAM 8B

103. In addition, notwithstanding the presumption that the policies of the GCP should not undermine its deliverability and that viability assessments will not be required on a site-by-site basis, Policy G8 of the GCP allows, in wholly exceptional circumstances, that a flexible approach be taken to phased developments over the lifetime of the project. **MM56** is required for the GCP to be consistent with Policy SD12 of the JCS. This already sets out the process to be undertaken if the viability of a development cannot deliver the requisite level of affordable housing.

## **Conclusion**

104. Subject to the MMs identified above the development proposed within the GCP is sufficiently viable to enable the delivery and implementation of the spatial requirements of the JCS.

## **Issue 9 – Whether other policies within the GCP are consistent with the development plan, national policy and are effective?**

105. As submitted, there is a lack of clarity in relation to the site allocations as to what is policy text and what is not. Therefore, modifications are required to make it explicit that sites have been allocated and to set out, unambiguously, what uses would be appropriate, consistent with Paragraph 16 of the Framework: **MM59, MM60, MM61, MM62, MM63, MM68, MM69, MM70, MM71, MM72, MM73, MM74, MM75, MM76, MM77, MM78, MM79, MM80, MM81, MM82, MM83, MM84, MM85, MM86, MM87** and **MM88**.

## **Elevation to development plan status and deferral to other bodies**

106. Individual policies within the GCP have inappropriately elevated specific studies, and guidance to development plan status. Examples of this include Sport's England's Active Design guidance in Policy C1, Gloucestershire Wildlife Trust's Building with Nature standards in Policy E5, and the Transport Implementation Strategy and Gloucestershire Local Transport Plan in Policy G1. These policies require development to accord with named standards, or other strategies outside of the development plan. Similarly, policy text should not refer to development taking place in line with the objectives or priorities of an external body, such as the Local Nature Partnership or Gloucestershire County Council.

107. Consequently, for the GCP to be effective the following MMs are required to delete such references from the policy text and to include additional text to provide an effective policy framework **MM21, MM25,**

**MM27, MM28, MM32, MM35, MM38, MM39, MM40, MM41, MM44, MM51, MM53, MM54.**

108. Following the response to the main modification consultations, in the interests of clarity, I have made a slight amendment to **MM27** and **MM28**.

### **Changes to the Framework**

109. During the examination of the GCP, the Framework was revised in July 2021. This resulted in some consequential changes to paragraph numbering. Therefore, to be consistent with national policy **MM30** is required.

### **Changes to the Building Regulations**

110. Following Part S of the Building Regulations, which came into effect on 15 June 2022, the provision of electric vehicle charging points in residential and non-residential buildings is now required. Consequently, Policy G2 no longer serves a purpose and would, if retained, lead to confusion and duplication. Consequently, it should be deleted. Therefore, for the GCP to be effective **MM50** and **MM52** are required.

### **Conclusion**

111. Subject to the MMs identified above the other policies within the GCP are consistent with the development plan, national policy and are effective.

### **Issue 10 – Whether the GCP has clear and effective mechanisms for implementation, delivery, and monitoring?**

112. As submitted, the GCP does not clearly articulate the requirement to monitor the delivery of its objectives, policies, and the delivery of the site allocations. Therefore, to ensure that the plan is effective **MM91** is required.

### **Conclusion**

113. Subject to the MMs identified above the GCP has clear and effective mechanisms for implementation, delivery, and monitoring.

## **Overall Conclusion and Recommendation**

114. The GCP has a number of deficiencies in respect of soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the main issues set out above.

115. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended MMs set out in the Appendix the GCP 2011- 2031 satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound and legally compliant.

*Louise Nurser*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.