1.0 SITE DESCRIPTION AND PROPOSAL

1.1 This proposal relates to the ‘Greyfriars’ scheme on the old Gloscat campuses off Brunswick Road. The planning and conservation area consent applications were considered by the Planning Committee in November 2011, with full planning permission being granted subject to conditions upon completion of the s106 agreements on 30th March 2012.

1.2 The existing s106 agreement with the City Council and Unilateral Undertaking to the County Council secure the following –

Affordable Housing
25% of the total number of units (64 units).

Public Open Space
A financial contribution of £29,394 towards off-site provision or improvements to existing sport or play facilities within public open space in the Westgate Ward.
Trees
A financial contribution of £12,472 towards off-site tree planting within the Westgate ward.

Securing community space
The provision of a community facility within the PCT building.

Car club
A financial contribution of £20,350 to the operation of the car club and allocation of two parking spaces within the sites for the car club.

Implementation of a community archaeology programme or event
This has been undertaken.

Education & libraries (unilateral undertaking to County Council)
A financial contribution of £49,784 for expenditure on the provision of and extension to library facilities within the Westgate Ward.

Residential Travel Plan (unilateral undertaking to County Council)
Including a Gloucestershire County Council assessment fee of £5,000.

1.3 The applicants have stated that if left unmodified, there is no prospect of the approved scheme being implemented. The applicants propose to reduce the affordable housing component from 25% to 12.5% to enable delivery of the scheme. They note that even if this alteration is approved it will mean that the development returns still appear modest in relation to the scale of investment required and the return on capital employed.

1.4 The proposal is brought to the Planning Committee as a potential amendment to the agreed s106 agreement.

2.0 RELEVANT PLANNING HISTORY

08/01655/CON and 08/01654/FUL

2.1 Demolition of 3 (no.) single storey buildings and erection of palisade fencing in 3 (no.) locations (Media site). Granted 5th February 2009 and undertaken.

10/01040/CON

2.2 Demolition of buildings comprising the nine storey tower block and associated outbuildings on the 'Main site' (to the north west of Brunswick Road) (demolition proposals exclude the Technical College building fronting Brunswick Road on the 'Main site' and the Dawn Redwood tree, any curtilage structures or parts of the Via Sacra, any foundations on the 'Main site', and all buildings on the 'Media site' (to the south east of Brunswick Road)). Granted 9th December 2010 and undertaken.

11/00107/FUL

2.3 Site clearance and mixed use redevelopment comprising 10 no. blocks on the Greysfriars site (land to the north west of Brunswick Road) and 5 no. blocks on the Media site (land to the south east of Brunswick Road). Residential
dwellings comprise 254 total (including 183 dwellings on the Greyfriars site and 71 dwellings on the Media site). 350 square metres of Class A3 use on the Greyfriars site (ground floor to Blocks A and B), 1335 square metres of Class D1 and D2 uses on the Media site (Block M), 367 square metres of Class A1 use on the Media site (Block M) and 490 square metres of Class B1 use on the Media site (Blocks J and M). 207 car parking spaces total (including 132 spaces on the Greyfriars site and 75 spaces on the Media site). Construction of access roads, new public thoroughfares, spaces, squares and associated landscaping and infrastructure. Granted subject to conditions and s106 agreements 30th March 2012.

**11/00109/FUL**

2.4 Demolition of buildings comprising the Technical College building fronting Brunswick Road on the 'Greyfriars' site (site to the north west of Brunswick Road) and all buildings on the 'Media' site (site to the south east of Brunswick Road). Granted subject to conditions 22nd December 2011.

**12/00771/FUL**

2.5 Variation of conditions 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 19, 20, 21, 22, 25, 29, 31, 32, 33, 34, 35, 36, 44, 45, 46, 51 and 52 of planning permission ref. 11/00107/FUL, to allow for the discharge of conditions on a phased basis and to amend the code for sustainable homes level for affordable dwellings. Currently pending determination – endorsed by Planning Committee November 2012, awaiting deed of variation to s106 agreement.

**3.0 PLANNING POLICIES**

3.1 The following planning guidance and policies are relevant to the consideration of this application:

**Central Government Guidance - National Planning Policy Framework**

The National Planning Policy Framework (NPPF) should be taken into account as a material consideration in all planning decisions. It does not alter the requirement for applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is underpinned by a presumption in favour of sustainable development.

The NPPF advises that authorities should approve development proposals that accord with statutory plans without delay, and also grant permission where the plan is absent, silent, indeterminate or out of date. This should be the case unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework as a whole, or specific policies in the NPPF indicate development should be restricted.

Authorities should seek to approve applications where possible, looking for solutions rather than problems.

Paragraph 173 emphasises the importance of viability and costs in decision-taking. Obligations should not threaten viability.
Paragraph 205 relates to planning conditions and obligations, noting that changes in market conditions should be taken into account and that local planning authorities should be flexible to as to prevent development being stalled.

**The Development Plan**

3.2 Section 38 of the Planning and Compulsory Purchase Act 2004 has established that - “The development plan is
(a) The regional spatial strategy for the region in which the area is situated, and
(b) The development plan documents (taken as a whole) which have been adopted or approved in relation to that area.
If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy that is contained in the last document to be adopted, approved or published (as the case may be). If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

**Regional Guidance**

Regional Guidance historically comprises Regional Planning Guidance 10, with the Regional Spatial Strategies (RSS) due to supersede these. As Members will be aware there have been significant complications with the progress and status of RSSs. The Government’s revocation of the RSSs was challenged successfully, and a subsequent Government direction to consider the intention to revoke was also challenged. The Court of Appeal ruling on this latest challenge says that there may be circumstances in which the intention to abolish the RSSs would be material to a development control decision but only in very few cases. In terms of plan-making however, the ruling is that it would be unlawful for a Local Planning Authority preparing development plan documents to have regard to the proposal to abolish regional strategies. The Policies of RPG10 and the Regional Spatial Strategy, as progressed, were taken into account in the original decision-making.

3.3 The local policy framework comprises the following documents:

- **Structure plan:**
  The adopted plan is the Gloucestershire Structure Plan Second Review (Adopted November 1999 and ‘saved’, the intention was that this would be until the Regional Spatial Strategy was adopted). The Gloucestershire Structure Plan Third Alteration reached Proposed Modifications stage in July 2004 and January 2005, although the Second Review is utilised for development control purposes. This was taken into account in the original decision-making.

- **Local Plan:**
The statutory development plan for Gloucester remains the City of Gloucester Local Plan (Adopted 1983 and partially saved until the Local Development Framework is adopted).

- Subsequent to the 1983 plan there has also been the City of Gloucester (Pre-1991 Boundary Extension) Interim Adoption Copy October 1996), and City of Gloucester First Stage Deposit Local Plan (June 2001).
- Regard must also be had to the 2002 Revised Deposit Draft Local Plan. This has been subjected to two comprehensive periods of public and stakeholder consultation and adopted by the Council for development control purposes. This cannot be saved as it is not a formally adopted plan, however with it being adopted for development control purposes it is still judged to be a material consideration. Appeal reference APP/U1620/A/07/2046996 dated 18th March 2008 confirms the degree of weight that may be afforded to the 2002 Revised Deposit Draft Local Plan. It is considered that particular weight may be afforded to those policies that attracted a limited number of, or no objections during the consultation stages. In his decision the Inspector stated the following; “Although the local plan is not part of the development plan it has been adopted for development control purposes and I give considerable weight to it having regard to the amount of public consultation that it underwent….”

2002 Plan allocations
The Greyfriars site is within or includes:
- Conservation Area
- Area of Principle Archaeological Interest
- Scheduled Monument designation

The Media site is within:
- The Brunswick Road frontage is within the Conservation Area (however the boundaries have been reviewed since the 2002 Plan and the whole site is now within the Conservation Area).
- Area of Principle Archaeological Interest.

2002 Plan Policies
The aims of the following policies from the City of Gloucester Second Deposit Local Plan (2002) were taken into account in determining the original application:
B.10 – Trees and hedgerows on development sites
BE.15 – Provision of open space in major development
BE.16 – Provision of public art
BE.18 – Vehicular circulation and parking in new residential development
BE.31 – Preserving sites of archaeological interest
BE.32 – Archaeological assessment
BE.33 – Archaeological field evaluation
BE.34 – Presumption in favour of preserving archaeology
BE.35 – Scheduled Ancient Monument
BE.36 – Preservation in situ
BE.37 – Recording and preserving archaeology
TR.1 – Travel plans and planning applications
Policy H1 allocates ‘Site MU7’ (Gloscat Main site) for mixed use to include primarily housing with small scale retail, office and leisure uses, an indicative capacity of 85 dwelling units. It also includes a site-specific obligation to re-site this part of the college to an appropriate location within the central area. It also allocates ‘Site MU8’ (Gloscat media studies site) for mixed use to include primarily housing with small scale retail, office and leisure uses, an indicative capacity of 30. It also includes the college re-siting obligation.

Emerging Plan
In terms of the emerging local plan, the Council is preparing a Joint Core Strategy with Cheltenham and Tewkesbury Councils and has recently published for consultation a Developing the Preferred Options Document in December 2011. In addition to the Joint Core Strategy the Council is preparing a local City Plan which is taking forward the policy framework contained within the City Council’s Local Development Framework Documents which reached Preferred Options stage in 2006.

On adoption, the Joint Core Strategy and City Plan will provide a revised planning policy framework for the Council. In the interim period, weight can be attached to relevant policies in the emerging plans according to:

- The stage of preparation of the emerging plan
- The extent to which there are unresolved objections to relevant policies; and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework.

Greater Greyfriars Planning Brief
This sets out the Council’s preferred approach for the development of this part of the city, forming part of the emerging Local Development Framework, and has been adopted as an interim document for development control purposes. Its scope includes, but extends wider than, the college campuses. It references the Local Plan and Draft Central Area Action Plan allocations, and includes a series of objectives for the sites, including design requirements,
conservation, amenity, trees, linkages and parking. It was taken into account in the original decision making.

Draft Central Area Action Plan
Proposes a mixed-use allocation for the Greater Greyfriars area including:
Gloscat main site – residential with limited commercial – indicative capacity of 250 dwellings and 1,000 sq metres of commercial floorspace;
Gloscat media site – residential development including the provision of a Neighbourhood Resource Centre – indicative capacity of 150 dwellings;
Site-specific requirements include the creation of a high quality public open space around the Greyfriars monument; the enhancement of the setting of the monument and listed buildings, and potentially high prominence of archaeological remains.

Emerging Supplementary Planning Documents
Draft Supplementary Planning Document 1 - Affordable Housing
Draft Supplementary Planning Document 2 - New Housing and Open Space
Draft Supplementary Planning Document 4 – Development affecting site of archaeological interest

Adopted Supplementary Planning Guidance
SPG2 – Travel plans
SPG5 - Lifetime Homes

3.2 All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – [www.gloucester.gov.uk/planning](http://www.gloucester.gov.uk/planning); Gloucestershire Structure Plan policies – [www.gloucestershire.gov.uk/index.cfm?articleid=2112](http://www.gloucestershire.gov.uk/index.cfm?articleid=2112) and Department of Community and Local Government planning policies - [www.communities.gov.uk/planningandbuilding/planning/](http://www.communities.gov.uk/planningandbuilding/planning/).

4.0 CONSULTATIONS
4.1 The Asset Management Service Manager advises that the submitted viability information is satisfactory.

5.0 PUBLICITY AND REPRESENTATIONS
5.1 As this is not a planning application no formal publicity has been undertaken. Nevertheless certain parties have written to express their views (these are appended).

5.2 The Gloucester Heritage Urban Regeneration Company wishes to see the exemplar regeneration proposals delivered as soon as possible. If a recommendation to accept the viability appraisals is given, the GHURC urges Members to approve the request.

5.3 The City Centre Community Partnership reluctantly supports the application.

5.4 The full content of all correspondence on this application can be inspected at Herbert Warehouse, The Docks, Gloucester, prior to the Committee meeting.
6.0 OFFICER OPINION

6.1 It is considered that the main issues with regards to this proposal are scheme viability and regeneration aspirations.

Viability

6.2 Scheme viability is increasingly becoming a major consideration in planning proposals. This reflects the current difficult economic circumstances that have affected the delivery of development proposals across the country, and the Government’s guidance to planning authorities on such matters has been clarified in several respects recently.

6.3 The Government’s Chief Planner wrote to all Local Planning Authorities on 31st March 2011, enclosing a Ministerial Statement by Greg Clark;
“… to further ensure that development can go ahead, all local authorities should reconsider, at developers’ request, existing Section 106 agreements that currently render schemes unviable, and where possible, modify those obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms …”

6.4 The NPPF also provides guidance on such viability matters at paragraphs 173 and 205;
“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal costs of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable”.

“Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, where appropriate, be sufficiently flexible to prevent planning development being stalled”.

6.5 The recent Ministerial Statement by Eric Pickles (6th September 2012) underlines the government’s approach to removing barriers to development;
“It is vital that the affordable housing element of Section 106 agreements negotiated during difficult economic conditions is not allowed to undermine the viability of sites and prevent any construction of new housing. This results in no development, no regeneration and no community benefits at all when agreements are no longer economically viable”.
6.6 The statement outlined the government’s intention to introduce legislation to allow developers to appeal against s106 obligations and development that is considered unviable due to the affordable housing component. The Government therefore encourages Councils “to take the opportunity before legislation comes into effect to seek negotiated solutions where possible”.

6.7 The applicant has submitted viability information to support the request, which has been analysed by the Council’s expert Officer. The Asset Management Service Manager is happy that the submitted figures are reasonable, and that on the current basis (i.e. 25% affordable housing) the development would not proceed. The 12.5% affordable housing proposal creates a more favourable scenario for a developer to realistically proceed.

6.8 The Homes and Communities Agency (HCA) is unable to provide further funding support, therefore its approach has been to endorse a reduction in the affordable housing contribution as the only means of securing the delivery of the project. The HCA would be a signatory to any revised s106 agreement.

6.9 It is quite clear that central government guidance is pressing strongly for the positive consideration of applications and for Authorities to find means to enable development to proceed. The submitted viability information supports the applicant’s approach and this has been given expert consideration. I raise no objection to the request on the grounds of scheme viability. Indeed the 12.5% affordable housing and £250,000 of other contributions is still a significant pot of mitigation measures and is favourable when compared to schemes coming through the system now.

**Regeneration**

6.10 The former Gloscat campuses are key regeneration targets in the City Centre. The re-development of the campuses under the existing scheme would provide significant benefits, delivering a high quality development proposal in place of a vacant and deteriorating range of buildings. Because of the need to build out the affordable housing component of the scheme by 2015 in order to benefit from HCA grant there is an ever decreasing window of opportunity to secure the development on the ground.

6.11 There is evidently now a serious risk that the development does not proceed. Given the current economic conditions and the scheme viability, if the project failed there is no guarantee at all that a further redevelopment scheme would come forward in the near future particularly one with the design quality currently secured. If the failure of the scheme meant that the HCA ceased to be involved the delivery of any affordable housing would also be under increased pressure as would the support for design quality given by the HCA.

6.12 The desire to secure much needed affordable housing must be balanced against the delivery of an important regeneration scheme in the city centre. In my view the opportunity to create circumstances where the regeneration of this site can take place while still retaining a proportion of affordable housing weighs in favour of the proposal.
7.0 CONCLUSION

7.1 Under the current circumstances it appears unlikely that the current development proposals will proceed. This proposed revision to the affordable housing component presents an opportunity to allow this regeneration scheme to proceed.

7.2 Taking into account the strained viability of the scheme and the clear guidance from central government, the remaining s106 contributions that are still on offer, and the importance of the delivery of this regeneration site, I recommend that the amended terms are accepted.

8.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

8.1 That delegated powers be granted to the Development Control Manager to vary the legal agreement associated with planning permission 11/00107/FUL and to finalise the precise wording of the varied s106 agreement and the associated schedules and plans on the basis of 12.5% affordable housing (rather than 25%).

Decision: ................................................................................................................................

Notes: ................................................................................................................................

........................................................................................................................................

Person to contact: Adam Smith
(Tel: 396702)
ELECTRONIC APPLICATION

Application Number: 12/01114/MOD
Address: Former Gloscat
Brunswick Road
Gloucester

Target Date: 

Applicant: Linden Homes Ltd
Principal Planning Officer (Major Projects)
Development Services
Gloucester City Council
4th Floor
Herbert Warehouse
The Docks
Gloucester GL1 2EQ

12th December 2012
FAO Mr Adam Smith

Dear Sirs

Proposed mixed use redevelopment of the former Gloscat College sites at Brunswicke Road, Greyfriars comprising 254 new dwellings, A1, A3, B1, D1, D2 uses, new public art, spaces, squares, landscaping, access roads and thoroughfares:
Planning Application Reference No's 11/00107/FUL & 12/00771/FUL

As previously stated in our consultation responses prior to Planning Committee’s determination of the above applications in November 2011 and 2012 respectively, GHURC fully supports Linden Homes proposals for the redevelopment of the former Gloscat college sites at Greyfriars - the subject proposals representing the culmination of many years of collaborative working to secure the redevelopment this key ‘Magnificent Seven’ site within this historic quarter of the city.

This scheme will continue the delivery of the GHURC’s vision to regenerate an entire cross-city swathe of land, running from the Docks, Quays and Canal Corridor in the south through Blackfriars, Kings Quarter in the city centre and the Railway Triangle to the east. The subject, residentially led, mixed use proposals will help to sustain the future viability of city centre facilities, shops and services and provide a significantly improved setting for listed buildings and city centre conservation areas (notably the Greyfriars monument, the Library, Greyfriars Lane, and Brunswicke Road).

At the GHURC chaired Greyfriars Steering Group meeting on Friday 7th December we were formally advised by Linden Homes that the approved November 2011 scheme (as varied by the recently approved modification of planning conditions application 12/00771) was financially unviable and that the only means of securing the proposals was to seek a reduction in the level of the previously agreed affordable contribution from 25% to 12.5% - this representing a decrease to 32 (from 64) affordable dwellings across both sites. The Homes and Communities Agency further stated that they are unable to provide any additional subsidy to the scheme and that should the requested reduction be refused, there would be a significant risk to their ability to implement the Development Agreement with Linden Homes. Should this occur it is highly likely that this would then trigger a re-marketing of the combined sites with the major risk of a significant reduction in design quality and further delay to the realisation of the vision.
Whilst we have not been able to examine the applicant's viability appraisals justifying the need for the requested reduction for reasons of commerciality, we understand that the submission has been endorsed by the Homes and Communities Agency and will be independently scrutinised by the Council's Valuer and his advice incorporated in your report to Members.

To conclude, GHURC wishes to see the currently approved exemplar regeneration proposals for Greyfriars to be delivered as soon as possible. Should Planning Committee be recommended to endorse the submitted viability appraisals, GHURC would urge Members to approve Linden Home's request.

Yours sincerely,

[Signature]

Chief Executive
RE: APPLICATION NO. 11/00107/FUL

GLOSCAT REGENERATION SCHEME – NEGOTIATION OF CONDITIONS – letter 16th November 2012

Following an application by Linden Homes to reduce the level of affordable housing for the GLOSCAT development from 25% to 12.50% GCCCP carried out a wide ranging consultation amongst our members and partners. This consultation received a considerable response the following being a summary of the opinions expressed.

- We are concerned that this submission is being made at such a late stage in the process especially as Linden are only too well aware of the already challenging and fragile timetable facing this development.

- We do not believe that this question of scheme viability has only just arisen and such a late submission has put the community and more significantly the democratic planning process under undue pressure to give permission without allowing time for effective consideration.

- The implication is that if the submission is not accepted the scheme will be withdrawn and indeed even if accepted there is still no guarantee that the developer will not return for a further reduction in the affordable housing level. Particularly as the CSJ letter does say that even with the reduction requested the ‘.... development returns still appear modest ... ’

- However this scheme as designed is a premier housing scheme which includes the delivery of a very important health facility and community space. It will be a development of high quality design bringing much needed economic activity into the heart of the City Centre.

- If the scheme is withdrawn the Media and GLOSCAT sites could remain empty for many years with no guarantee (indeed it is unlikely) that any future development will meet the same high standards. An important loss would be the health facility which with the changes in the NHS structure due on 1st April 2013 must be ‘signed up’ before the end of March 2013 or it will be lost altogether to this City Centre site.

- Bearing in mind the tight timetable and the threat that the development may be lost we reluctantly support the application to reduce the level of affordable housing from 25% to 12.50%.

Barry Leach
Barry Leach, Gloucester City Centre Community Partnership – 11th December 2013