**RE: LAND WEST OF PARK FARM, THORNBURY**

**APPELLANT’S OPENING NOTE**

1. The site comprises 35.91 ha of agricultural land to the north-west of Thornbury.It lies adjacent to the settlement boundary as identified in the Development Plan. The proposal is in outline with all matters save access reserved and it seeks consent for up to 595 dwellings (35% affordable); a primary school; up to 700 m2 of retail and community hub use; public open space and a sustainable transport link into the adjacent Park Farm development.

2. There are three putative reasons for refusal that are between the principal parties for the purposes of the appeal:

(a) Less than substantial harm to the setting of Thornbury Castle and St Mary’s Church (both Grade I); ditto the Grade II Sheiling School and harm to the setting of the Conservation Area;

(b) Loss of best and most versatile land (14.4 ha Grade 2 and 10.3 ha Grade 2);

(c) Development beyond defined settlement boundaries contrary to CS5 and CS34 of the Core Strategy.

3. The proposal is the outcome of extensive engagement with LPA officers and it was the subject of initial officer support at the highest level.

**Heritage**

4. It was the view of the LPA Conservation Officer that the urbanising effect of the development would harm the setting of the Castle, Church, Sheiling School and the Conservation Area, albeit at the lower end of the scale. The Appellants agree with the conclusion of less than substantial harm at the lower end of the scale save in respect of Sheiling School where we say the impact of the development is neutral. The conclusion of harm at the lower end of the spectrum is further expressed in the putative reasons for refusal. For reasons that are not clear, the LPA commissioned advice on heritage from the Place Services Group of Essex CC. They advised that there would be no harm to any assets. The Officer’s Report dismissed this as an “outlier”, although given the closeness between no harm and harm at the lower end of the scale the characterisation seems unjustifiably casual. In any event, the LPA now rely on Mr Burns who argues that there is no need to identify where on the spectrum of possible harm any proposal’s impact lies. It is his view that regardless of degree of harm very great weight should attatch to it. That is surprising given that PPG advice requires a clear articulation of the extent of any harm and the case of *R (Kinsey) v. LB Lewisham* [2021[ EWHC 1286 (Admin) confirms its necessity in order that the harm can be appropriately weighed in the planning balance. Mr Burns goes on to say that if it were to be necessary to identify the extent of harm it would be “moderate”. Not only is this at odds with the Conservation officer and the putative reasons for refusal, but we do not understand how his conclusion - on any view an “outlier” - is reached. It is our case that such harms as do exist are outweighed by the public benefits of the scheme. Those benefits can be addressed in evidence.

**Loss of Best and Most Versatile Land**

5. The LPA give this moderate weight. It is a fact that in all the Appellants’ discussions with the LPA and in the LPA’s Briefing Note for Members which preceded the Officer’s Report this was not an issue. It was articulated as a concern for the first time in the Officer’s Report. The simple fact is that if development is to occur around Thornbury which avoids Green Belt and areas subject to flooding constraints then development using some best and most versatile land is inevitable and to that end such has occurred repeatedly in respect of recent developments around Thornbury

**Settlement Boundary**

6. It is the Appellants’ case that this is not an obstacle to development for two broad reasons:

(a) It is our case that the LPA does not have a 5 year housing land supply and that NPPF Paragraph 11(d) is engaged. In that context we say the settlement boundary should carry little weight. The reasoning behind that lies with the second reason we say that the breach of the settlement boundary is not an obstacle.

(b) The housing requirement in the Core Strategy. The Development Plan housing requirement was not the product of an NPPF compliant SHMA. This was of express concern to the EiP Inspector and the Plan accordingly committed itself to a review before the end of 2018. The key problem was that the requirement did not engage with then known unmet housing needs of Bristol. The flawed requirement directly fed into the fixing of settlement boundaries. It is to be noted that the problem of fixing an appropriate South Gloucester requirement is still present. South Gloucester currently use a Standard Method figure, but again that is a South Gloucester stand alone figure that takes no account of Bristol’s needs. Once a local housing need assessment is carried out then the needs of the HMA as a whole will have to be assessed and distributed. It is not for this Public Inquiry to do that exercise, but it is quite clear that even if the LPA can currently demonstrate a 5 year housing land supply it does not signal an absence of housing need or any cause for complacency.

**D E MANLEY QC**

 **Counsel for the Appellant**

19th May 2022

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