



**Land to the West  
of Park Farm,  
Oldbury Lane,  
Thornbury**

Proof of Evidence of:  
**Andrew Crutchley**  
BA (Hons), PG Dip  
(Oxon), MCifA

In respect of:  
**Heritage Matters**

On behalf of:  
**Barwood Development  
Securities Ltd and the  
North West Thornbury  
Land Consortium**

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**Volume I:  
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- Appendix AC 11** Extract from Fletcher, J 'The Rise of British deer parks: their raison d'être in a global and historical perspective' in Rotherham, I.D (ed) 2007 *The History, Ecology and Archaeology of Medieval Parks and Parklands, Landscape, Archaeology and Ecology Volume 6* (Sheffield Hallam University)
- Appendix AC 12** Extract from La Trobe-Bateman (1996) *Avon Extensive Urban Survey Archaeological Assessment Report: Thornbury* (Unpublished)
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**Volume III: Summary of Proof of Evidence (bound separately)**

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	Author	Formatted	Peer Review	Proofed by/Date
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## **Section 1**

### **Preamble**

- 1.1 This Proof of Evidence on heritage matters has been prepared by Andrew Crutchley, a Director at The Environmental Dimension Partnership Ltd (EDP) possessing 24 years of continuous experience in practice as a heritage professional.
- 1.2 My qualifications comprise a BA (Hons) Degree in History from the University of East Anglia and a Postgraduate Diploma in Field Archaeology from Oxford University Department of Continuing Education (OUDCE).
- 1.3 I am a full Member of the Chartered Institute for Archaeologists (MCIfA) and head up the Archaeology and Heritage Team at EDP, which comprises ten specialist consultants across the three offices and as a whole is a Registered Archaeological Organisation (RAO) with the Chartered Institute for Archaeologists.
- 1.4 My portfolio of project involvements includes the assessment, evaluation and recording of archaeological sites, monuments and remains, as well as the investigation and assessment of both standing buildings and structures and historic/designed landscapes and areas across England, Wales and Scotland.
- 1.5 My undergraduate studies at the University of East Anglia included an emphasis on the understanding and investigation of historic areas, landscapes and buildings within the School of Landscape Studies under Tom Williamson and Roberta Gilchrist.
- 1.6 As an experienced cultural heritage professional, I have prepared numerous baseline assessments, and also provided expert witness evidence, to inform and support the determination of planning applications involving designated and non-designated heritage assets, in S78 public inquiries, informal hearings and through the exchange of written reps.
- 1.7 With specific reference to the current appeal, I have previously provided expert witness evidence in respect of the potential impacts to listed buildings, both through direct and indirect effects – i.e. changes within their setting.

1.8 In that regard, my portfolio of expert witness involvements of relevance to this case includes the following listed buildings:

- Warwick Castle Grade I listed building and scheduled monument (Warwickshire);
- Kedleston Hall Grade I listed building (Derbyshire);
- Haughley Park Grade I listed building (Suffolk);
- Church of St Katherine Grade I listed building (Irchester, Northamptonshire);
- Barnham Court Grade I listed building (West Sussex);
- Howell's School Grade II\* listed building (Cardiff);
- Morton Grange Grade II\* listed building (Thornbury, South Gloucestershire); and
- Court Farmhouse Grade II\* listed building (Carmarthenshire).

1.9 Finally, I confirm that this Proof of Evidence on Heritage Matters is true and the opinions expressed are my true and professional opinions.

## Section 2

### Appointment and Scope of Evidence

- 2.1 This second section of my Proof of Evidence will detail my involvement with the appeal site and the development proposals forming the appeal's focus.
- 2.2 It will then outline the response of the Council to the evaluation and determination of the planning application in terms of the proposal's effect on those heritage assets identified as being affected by its implementation.

#### **My Appointment and Involvement in the Project**

- 2.3 I was not involved with any of the heritage work that was completed for the preparation and submission of the outline planning application, and neither was anyone else at EDP. All the pre-determination heritage inputs, including baseline reports and the heritage chapter in the Environmental Statement were prepared for the appellant by Ben Stephenson (BS) at BSA Heritage and I had no involvement.
- 2.4 My first involvement with the project was in summer 2021, when I was first approached by the appellant to review and then provide my advice on the heritage issues associated with the appeal site and the outline planning application on 13 August.
- 2.5 I was approached by the appellant again on 23 September 2021 to enquire whether I would take on the heritage case if the Council was to refuse the outline planning application.
- 2.6 I was subsequently instructed to complete a more detailed review of the documents which were submitted with the outline planning application and a visit/walkover to the appeal site on 13 October 2021.
- 2.7 I first visited the appeal site, its wider surroundings and the heritage assets identified as of relevance to the scheme in the various application documents on 04 November 2021.

- 2.8 In light of that first visit, I accepted an instruction to provide expert witness evidence for the appellant in terms of the heritage issues and then completed a second visit to the appeal site on 20 November 2021.
- 2.9 Having reviewed the relevant background documents and then visited the appeal site and its wider surroundings (twice), I prepared the heritage inputs to the appellant's Statement of Case that was submitted to the Planning Inspectorate on 30 November 2021.
- 2.10 More recently, I have completed four further visits to the appeal site, its surroundings and those heritage assets identified within the Council's Statement of Case as being adversely affected by the appeal proposals.
- 2.11 During the course of these four visits, I have obtained access to the internal spaces and grounds of Thornbury Castle and the enclosed grounds of Sheiling School. These two assets are privately owned, with the former in use as a hotel and the latter as a private educational establishment with restricted access as a result.

### **The Council's Case**

- 2.12 My Proof of Evidence (PoE) responds to and then addresses Reason for Refusal (RfR) 1 of the Council's Statement of Case (issued on 28 January 2022). This states the following:

*'The proposed development would cause less than substantial harm at the lower end of the spectrum to the setting of the Grade I listed Thornbury Castle and St. Mary's Church and the Grade II listed Sheiling School and Thornbury Conservation Area. Great weight is required to be attached to this harm and applying PSP17 and paragraph 202 of the NPPF it is not considered that the public benefits of the proposal outweigh that harm.'*

- 2.13 The heritage policies cited in RfR 1 of the Council's Statement of Case (above) are detailed here within **Appendix AC 1**.



2.14 Paragraph 4.4 then expands on the RfR and sets out the Council's Case insofar as heritage matters are concerned:

*'The natural and historic environment is a finite and irreplaceable resource, and the protection of heritage assets is a priority nationally, as well as one for the Council. The Council will show that the appeal proposal will result in less than substantial harm to the setting and significance of the Grade I listed Thornbury Castle and St Mary's Church and the Grade II Listed Sheiling School and the Thornbury Conservation Area and the public benefits do not outweigh that harm so that there is a clear reason that permission should be refused under both paragraph 11 d(i) of the NPPF and PSP17 of the Development Plan.'*

2.15 More detail on the Council's heritage case is provided in the Report to the Strategic Sites Delivery Committee, which is dated 20 January 2022 [**CD 5.11**].

2.16 The second paragraph of the introduction identifies that *'In May 2021 a Briefing Note was produced for the executive member concluding that the proposal was considered to be fully policy compliant and that permission should be granted'*.

2.17 Paragraph 4.15 of the Committee Report [**CD 5.11**] repeats advice that was received from the Council's Conservation Officer that *'...harm to the identified designated heritage assets would vary and the harm may be considered to be limited or at the lower end of the spectrum of "less than substantial"...*'.

2.18 The advice at Paragraph 4.15 then moves on to contextualise the 'limited' harm identified in respect of designated heritage assets in terms of the relevant case law and planning policy guiding the treatment of listed buildings through the planning process.

2.19 There is some confusion and contradiction in the Officer's commentary however, with them first identifying that *'Refusal is therefore recommended'* on the basis of the 'great weight' test set out in Paragraph 199 of the National Planning Policy Framework (NPPF, 2021), but then setting out the following position in the subsequent (final) paragraph:

*'I would however also note paragraph 202 of the Framework which states. "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the*

*proposal, including securing its optimum viable use". This 'weighing up exercise is a matter for the decision maker'.*

2.20 It is not at all clear why the Council's Conservation Officer was advising that the application should be refused because of a perceived non-conformity with Paragraph 199 of the NPPF, when they apparently understood very well that this was a matter for the decision maker to address in line with the 'balancing exercise' detailed in Paragraph 202 of the NPPF and the Council's adopted planning policy on heritage matters (PSP 17).

2.21 Paragraphs 5.75 to 5.90 of the Committee Report provide the Case Officer's assessment of the appeal proposals in terms of heritage issues, highlighting in Paragraph 5.84 that the:

*'key assessment is the degree of harm to the setting [of the heritage assets], and whether the public benefit of the proposal would outweigh that harm'.*

2.22 The focus of the Council's case on heritage matters is then set out in Paragraph 5.87 of its Committee Report when it identifies the following assessment:

*'However, overall, the Conservation Officer's advice is that the urban design approach, whilst it will enable views of the [church] tower from within the development itself and so promote character/local distinctiveness it would not overcome or mitigate for the loss of views of St. Mary's Church Tower from Oldbury Lane. He is also of the view that by the inherent nature of the scheme the development will result in change in landscape character and would further erode the character of the historic deer park which makes a positive and material contribution to the setting of the Thornbury Castle building group. He considers that for similar reasons there would be harm to the other assets as well.'*

2.23 In that regard, Paragraph 5.88 states that *'the magnitude of harm is less than substantial at the lower end of the spectrum'* and Paragraph 5.90 takes this forward when it states the following conclusion:

*'It is therefore necessary to weigh the less than substantial harm to these heritage assets, which must be given great weight, particularly bearing in mind that two of the assets are*

*grade I, against the public benefits of the proposal. The balancing exercise is carried out later in this report.'*

2.24 Of course, the balancing exercise to which the Officer correctly refers must be undertaken with an accurate understanding and assessment of the heritage harm which is to be placed on the one side if it is to form a meaningful exercise.

2.25 To that end, Paragraph 5.89 of the Committee Report [**CD 5.11**] highlights that the Council sought and obtained a second opinion from Place Services with respect to the nature and magnitude of heritage impacts.

2.26 The Committee Report dismisses this 'external view' on the heritage proposals, which it is clearly stated reached the conclusion that *'the setting/significance of the heritage assets would not be adversely affected'* as it represents *'an outlier'* insofar as the identification of heritage impacts is concerned and because *'the views of the conservation officer are to be preferred'* as the basis for the preparation of the Case Officer's Report to Committee.

2.27 Section 6 of the Committee Report sets out the 'Planning Balance and Conclusion', where Paragraph 6.8 is of relevance here when it highlights that:

*'In balancing the harm to the heritage assets to which great weight is attached as against the identified public benefits it is considered that this harm is not outweighed by the benefits of the proposal. For this reason, the proposal is contrary to Policy PSP17.'*

2.28 No reason is given for the different conclusion reached in respect of the heritage harm and the public benefits to the Council's position of summer of 2021, which the introduction to the Report to the Strategic Sites Delivery Committee states was:

*'fully policy compliant'.*

2.29 I defer to my colleague, Mr Matthews, in respect of evidence on planning matters and the weight attributed to the heritage harm identified and the public benefits flowing from the appeal proposals.

## **The Council's Evaluation of the Appeal Proposals**

2.30 Along with the information submitted by the applicant (now appellant), the Council received the following specialist advice on heritage matters in ultimately deciding to refuse Outline Planning Application PT18/6450/O:

1. Rob Nicholson (Council Conservation Officer) on 31 January 2019, 24 March 2020, September 2020 & 13 January 2022;
2. Historic England on 11 June 2019; and
3. Place Services on 21 December 2021.

2.31 This specialist advice is reproduced at **CDs 2.4 & 2.13** to **2.15** and it is not intended to reproduce this correspondence here in any detail, other than in respect of the following questions:

1. Can the Place Services advice reasonably be dismissed as an 'outlier'?
2. What level of less than substantial harm does the Council consider to be caused in respect of the heritage assets and why?

2.32 The following table (**Table AC 1**) summarises the range of assessments which the Council received in determining the outline planning application:

**Table AC 1:** Summary of advice on the impact of the proposals on heritage assets.

Asset Ref	BS	RN 01.19	RN 03.20	RN 09.20	HE 06.19	TM 12.21	RN 01.22
<b>Thornbury Castle</b>	Neutral	Limited or lower end of LTSH		Reduced further, but still LTSH	LTSH	No harm	Lower end LTSH
<b>Church of St. Mary the Virgin</b>	Neutral				LTSH	No harm	
<b>Sheiling School</b>	Neutral				N/A	No harm	
<b>Thornbury Conservation Area</b>	Neutral				N/A	-	

**LTSH:** Less Than Substantial Harm (Paragraph 202 of the NPPF)

**BS:** Ben Stephenson (BSA Heritage)

**RN:** Rob Nicholson (Council Conservation Officer)

**HE:** Historic England

**TM:** Tim Murphy (Place Services)

2.33 It should be noted that none of the assessments completed to date has concluded that any harm caused to designated assets would be any more than ‘*limited*’ or equate to anything greater than the ‘*lower end of less than substantial*’ in terms of the Framework.

2.34 Hence, it is clearly questionable whether Tim Murphy of Place Services can reasonably be dismissed as being ‘an outlier’ in a breadth of expert opinion stretching from ‘*no harm*’ all the way to a ‘*limited*’ degree of harm which is equivalent to ‘lower end’ less than substantial harm in terms of the NPPF.

2.35 Ultimately, Rob Nicholson’s final assessment, in terms of the source of the impact upon the designated heritage assets that are cited in the Council’s Reason for Refusal of the outline planning application, is as follows:

*‘However, as per my last response to the case officer, while the design of the scheme had significantly improved, it was considered the case that the inherent impact of developing or introducing built form and thus urbanising part of an historic deer park to the north of the listed building group was [sic] well as the adjacent listed school would cause a degree of harm to the setting and in turn the significance of these designated heritage assets.’*

2.36 As well as confirming his advice that the appeal proposals (in their final form) would cause less than substantial harm at the ‘lower end of the spectrum’, Rob Nicholson identifies the source of the difference of opinion with Tim Murphy of Place Services regarding the impact of the appeal proposals in his most recent assessment from 13 January 2022 [CD 2.13]:

*'Having reviewed the response from Tim Murphy (as dated 21/12/21) which sets out his considered position on the potential impact of the development proposals on a list of relevant heritage assets, I would suggest that understandably he is not fully aware of the historic and spatial relationship between the site as an historic deer park and the Thornbury Castle building group to the south.'*

2.37 So, in summary, it appears to be the case that Rob Nicholson's identification of 'harm' to the various designated heritage assets derives from the principle of new building within the historic deer park that is associated with them, and it is this historic relationship which Tim Murphy did not pick up on in the completion of his assessment and his conclusion that the appeal proposals would generate no heritage harm.

2.38 Taken at face value, this would appear to indicate that the difference between whether the appeal proposals' implementation would cause 'no harm' to the designated heritage assets or less than substantial harm at the 'lower end' of the spectrum is the recognition of an:

*'historic and spatial relationship between [them and] the site as an historic deer park'.*

2.39 In light of the above, the following section of my Proof will investigate and assess whether all of the four designated heritage assets identified by the Council in Reason for Refusal 1 would be impacted by the appeal proposals, to what extent and in what way(s), in reaching an informed professional opinion on the nature and scale of harm that should be included within the balancing exercise presented in Paragraph 202 of the NPPF.

## **Section 3**

### **Assessment of Effects**

- 3.1 This section of my Proof identifies and assesses the nature and magnitude of effects upon the heritage assets that the Local Authority identifies in RfR 1 of its Statement of Case in refusing the outline application.
- 3.2 In line with the wording of RfR 1, the following assessment of effects will discuss the main heritage issues in surrounding:
1. Thornbury Castle;
  2. The Parish Church of St. Mary the Virgin;
  3. Sheiling School; and
  4. Thornbury Conservation Area.
- 3.3 Citation documents for these four assets are included as **CDs 6.2 to 6.5**, which should be read in tandem with the following paragraphs.
- 3.4 None of these four designated heritage assets is located within the appeal site boundary and likewise the boundary of the appeal site does not include any feature or element of the four assets within its extents.
- 3.5 Therefore, any and all impacts on these assets would be ‘indirect’ and expressed in terms of changes within their wider ‘setting’; and not as a result of direct changes to their physical form/fabric and appearance.
- 3.6 The location of the appeal site, in relation to the four designated heritage assets, is clearly shown on **Proof Plan AC 1**.

## Methodology

- 3.7 Current best practice guidance for the identification and assessment of ‘indirect’ effects on heritage assets is set out in Historic England (2017) *The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3*, which is known and referenced as GPA3 [CD 6.1].
- 3.8 When assessing the ‘indirect’ impact of proposals on heritage assets, i.e. such as those beyond the boundary of a development site, it is **not** a question of whether there would be a direct physical impact on that asset’s physical form and/or fabric, but instead whether change within its wider ‘setting’ would then lead to damage to or a loss of its ‘significance’.
- 3.9 The identification of change within a heritage asset’s setting must not be confused with harm to that asset. Instead, the question that should be asked is whether the change would result in a loss of (or damage to) its significance as a heritage asset.
- 3.10 The NPPF (July 2021) defines significance as: *‘The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.’*
- 3.11 To answer this question, it is first necessary to understand the significance of the asset in question (and any contribution made to that significance by its setting), in order to establish whether there would be any loss or damage to that significance, and therefore harm caused as a result of the proposal being implemented.
- 3.12 The Historic England guidance [CD 6.1] is clear in stating that change within a heritage asset’s setting need not necessarily be harmful; the implementation of development proposals within a heritage asset’s setting can be positive, negative or neutral.
- 3.13 The guidance [CD 6.1] presents an approach to setting and development management based around a five-step procedure:
1. Identify which heritage assets and their settings are affected;



2. Assess the degree to which these settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated;
3. Assess the effects of the proposed development, whether beneficial or harmful, on that significance or on the ability to appreciate it;
4. Explore ways to maximise enhancement and avoid or minimise harm; and
5. Make and document the decision and monitor outcomes.

3.14 The following section of my Proof therefore applies this guidance to the identification and assessment of potential impacts upon these four heritage assets.

### **Thornbury Castle**

3.15 Thornbury Castle is located circa 455 metres south of the appeal site's southern boundary and comprises a complex of well-defined and inter-related designations which focus on the following as the centrepiece:

#### ***Grade I Listed Buildings***

- Outer Court of Thornbury Castle and Walls of Kitchen Court [List Entry 1321132];
- Thornbury Castle Inner Court [1128788]; and
- Walls Enclosing Privy Garden Immediately to South of the Inner Court of Thornbury Castle [List Entry 1312668].

#### ***Scheduled Monuments***

- The buried remains of the medieval fortified house and the C16 privy garden at Thornbury Castle [List Entry 1410041].

### **Grade II Listed Buildings**

- West Lodge to Thornbury Castle and Adjoining Gateway [List Entry 1136690]; and
- East Lodge to Thornbury Castle [List Entry 1321107].

### **Grade II Registered Park and Garden (RPG)**

- Thornbury Castle [List Entry 1000569].

3.16 From here on, these designations will be collectively referred to as ‘Thornbury Castle’ and treated as a nationally important heritage asset, an ‘asset of the highest significance’ and a building of exceptional interest insofar as the Historic England grading criteria for listed buildings in England are concerned.

3.17 Representative photographs of the buildings are included as **Images AC 1 to 3** and they should be reviewed in conjunction with the following text, whilst historic map extracts that show the castle and its surroundings (dating from the early 18<sup>th</sup> to late 20<sup>th</sup> centuries) are also reproduced as **Plans AC 2 to AC 10**.

3.18 Verey (2002), Hawkyard (1977) & Emery (2006), extracts from each of which are included here as **Appendices AC 2, 3 and 4**, all offer detailed descriptions and analyses of Thornbury Castle and it is neither necessary nor appropriate to repeat those descriptions here, other than to elucidate its significance as a heritage asset.

3.19 At the same time, Phillpotts (2010) [see **Appendix AC 5**] provides a detailed chronology of Thornbury Castle and the wider landscape around it from the Middle Ages onwards to the present, whilst the Council’s Advice Note 12 describing the Thornbury Conservation Area and referenced as **CD 6.5** identifies that:

*‘Thornbury Castle was built on the site of a medieval fortified manor house and in 1507 Edward Stafford, Duke of Buckingham, began rebuilding the castle. That which survives is in fact unfinished, for in 1521 Henry VIII had the Duke executed on grounds of high treason. The castle is primarily a castellated Tudor Manor House’*

- 3.20 In contrast to the above, Emery (2006) notes that, whilst he started renovating the existing medieval (14<sup>th</sup> century) manor house beforehand, the Third Duke of Buckingham obtained a licence to crenellate a **new** mansion at Thornbury (from King Henry VIII) in 1510. It then proceeded in stages, with the principal gateway to the inner court dated 1511 and the chimneys of the South Range carrying the date 1514, but it is documented that work on the project ceased between 1519 and 1521 and then came to a permanent conclusion with the execution of the Duke by Henry VIII in May of that year [**Appendix AC 4**].
- 3.21 Although the property was not finished in terms of the grand project that the Third Duke envisaged at the outset in July 1510, the fact that Henry VIII and Anne Boleyn stayed at the castle on their excursion around the West Country in 1535 must mean that it was completed at least to a point where some of the elements were habitable temporarily.
- 3.22 As the listing citations indicate, the Castle comprises an outer court which was intended for retainers and ancillary accommodation (accessed through a gateway on the northern side) and an inner court of more architecturally and structurally impressive ranges set around each of the four sides of a central quad. Access was through an imposing gateway on the west side and the eastern side was closed off by the retained/renovated early 14<sup>th</sup> century hall that that was then subsequently demolished some time before 1732. The sub-surface archaeological remains are statutorily designated as a scheduled monument in recognition of their national importance.
- 3.23 The South Range of the Inner Court overlooks the Tudor ‘privy garden’ on the south side. This is known to have been framed by a timber gallery accessed from the Duke’s personal chambers and which then separated it from a ‘godly’ garden immediately to the east that formed part of a tripartite arrangement of designed spaces which also extended outwards to the creation of a deer park to the north (see Mowl 2002) [**Appendix AC 6**].

## **Step 2 of GPA3**

### *The Castle’s Significance*

- 3.24 In terms of the Castle’s architectural interest, Verey (2002) [**Appendix AC 2**] states that it is *‘an early c16 building of national importance, transitional between the late medieval tradition of the palace-castle and the beginning of the late Tudor development towards the country-house tradition. Although traditionally planned, Thornbury Castle was designed for*

*audacious and ambitious display, only surpassed amongst non-Royal buildings by Wolsey's Hampton Court'.*

- 3.25 Likewise, Emery (2006) observes that *'Had Thornbury Castle been completed, it would have been one of the largest and finest palaces in a period notable for their proliferation. Even in its present state, the remains are of outstanding national importance, for Thornbury is as much an expression of Buckingham's character and aspirations as the palaces of Henry VIII or those of Wolsey. Thornbury is usually compared with the latter before its royal enhancements (1515-26) but it may be more validly compared with a number of earlier residences'.*
- 3.26 He identifies Thornbury Castle as representing something of a 'transitional' building between the fortresses like Raglan Castle in South Wales and the palaces that are typically associated with the Court of Henry VIII and so in the process he paints the Third Duke of Buckingham as someone who looked backwards towards the castles of his forebears in the preceding century, rather than forwards to the Renaissance palaces appearing elsewhere around the country in the early decades of the 16<sup>th</sup> century.
- 3.27 This designated heritage asset's historic interest is principally expressed in terms of the long and well attested developmental chronology of the castle buildings, which can still be experienced and appreciated in the standing structures visible at the site to the present, both from internal areas and within its wider surroundings.
- 3.28 In addition, it is also expressed in terms of the historical figures connected with its construction, expansion and operation from the early decades of the 14<sup>th</sup> century through into the middle decades of the 19<sup>th</sup> century, which to some extent can also be experienced and appreciated in the various structures representing this asset.
- 3.29 The key historical connections include Jasper Tudor, Duke of Bedford and Earl of Pembroke, who was the uncle of King Henry VII of England and a leading architect of his nephew's successful accession to the throne in 1485. He was from the noble Tudor family of Penmynydd in North Wales and died at the manor house in Thornbury 1495. He is of course important for his role in establishing the Tudor dynasty which would rule England during the period from 1485 to 1603 and in the process give rise to historically important and iconic figures such as King Henry VIII and Queen Elizabeth I, albeit little of the building of this period remains visible.

- 3.30 As well as the oft ill-fated Stafford family and Dukes of Buckingham, who held the manor in between bouts of royal confiscation for a variety of misdemeanours that landed the holders in varying degrees of trouble with the Crown; Thornbury Castle possesses a direct historic relationship with King Henry VIII, who stayed at the property with his second queen, Anne Boleyn, on a visit to the West Country following its confiscation after the execution of the third Duke of Buckingham in 1521 (Phillpotts 2010, **Appendix AC 5**).
- 3.31 The Manor of Thornbury (and hence the castle) was held by a branch of the Howard family after 1637 and it remained in their hands until the 1960s, although Thornbury Castle was unoccupied until the 1720s, when some rooms to the south of the gate to the inner court were refurbished as a dwelling for the family's steward (see Phillpotts, 2010).
- 3.32 The one tower completed by the Third Duke of Buckingham, at the south-west corner of the inner court, was restored and re-roofed by Lord Henry Howard in 1809-11 and then the remaining ranges were restored by Henry Howard in 1854-55, where the former may well have involved Francis Greenway and the latter most definitely engaged well known Victorian architect Anthony Salvin. Salvin was recognised as an expert on medieval buildings and similarly renowned for his restoration of castles, houses and churches, which extended to both the Tower of London and Windsor Castle for Prince Albert.
- 3.33 Thornbury Castle's archaeological interest is assessed as principally stemming from the potential of the standing buildings and surrounding/intervening spaces to inform and enhance our understanding of (a) the complex's origins and development, (b) the use and functions of the key buildings and spaces and (c) the position of this castle in the chronological development of high status buildings in England from the Middle Ages, through the Tudor period and onwards into the 18<sup>th</sup> and 19<sup>th</sup> centuries.
- 3.34 In that sense, it is well documented (see Mowl 2002, **Appendix AC 6**) that well preserved remains of the early 16<sup>th</sup> century privy garden survive south of the South Range of the Inner Court and the lawns and paths to the north preserve sub-surface archaeological remains representing the position and extents of the medieval hall that was occupied by Jasper Tudor in the latter part of the 15<sup>th</sup> century (but built in the earlier 14<sup>th</sup> century) and which was subsequently retained as the East Range of the Third Duke of Buckingham's inner Court when he built his residence at Thornbury in the early years of the 16<sup>th</sup> century and then left it unfinished when he was executed in 1521 (Emery 2006 at **Appendix AC 4**).

- 3.35 As well as the more obvious potential of the spaces within and around the buildings, where the remains of the medieval hall are statutorily designated as a Scheduled Monument in light of their national importance, there is also potential in the standing buildings, with there being evidence that the North Range of the Inner Court may in fact incorporate retained fabric from the medieval hall.
- 3.36 Finally, Thornbury Castle is also assessed as possessing a degree of artistic interest, which is reflected in the numerous depictions of the buildings that survive, principally from the 18<sup>th</sup> and early decades of the 19<sup>th</sup> century when the castle comprised little more than a romantic ruin and became a focal point for artists who included it on the tour of West Country landmarks including Tintern Abbey and the Wye Valley in Monmouthshire.
- 3.37 The available depictions [a selection of which are reproduced in **Appendix AC 7**] focus unsurprisingly on either (a) the inner court looking south-west towards the main gate and the SW Tower in the background or (b) the principal south-facing elevation of the south range that includes the characteristic bay windows that overlook the privy garden.
- 3.38 Samuel and Nathiel Buck's *South View of Thornbury Castle in the County of Gloucester*, which is dated 1732, is different in that respect because it provides an 'artificially' elevated view of the whole castle looking north-east from within the churchyard.
- 3.39 However, whilst this depiction presents the castle within its wider landscape 'setting', it is at best questionable whether it is in any way accurate or reflective of the building's wider surroundings at that time, other than to conclude that the land to the north comprised a mixture of agricultural farmland and woodland stretching out towards the River Severn and where the medieval parish church on the mound at Oldbury represented and continues to represent a characteristic feature.
- 3.40 In view of the inclusion of a large mound or ridge immediately east of the castle, where Sheiling School (formerly Thornbury Park) is now located, and the need to gain an elevated viewpoint to stand any chance of capturing the low-lying farmland of the Vale to the north of the castle in the same illustration, it seems reasonable to conclude that the background is a more stylised than accurate depiction of Thornbury Castle's surroundings at that point of the early 18<sup>th</sup> century [**Appendix AC 7**].

3.41 Either way, it certainly seems reasonable to conclude that, insofar as Thornbury Castle possesses and expresses artistic interest, it does so in terms of the ornate and highly characteristic features of its built form and fabric and not in terms of any perceived landscape value or as part of a wider composition.

#### *The Castle's Setting*

3.42 Whilst the built form and fabric of the Castle is assessed as holding the majority of this designated asset's heritage significance, it is nevertheless considered that its setting in the wider landscape around it makes up the remaining portion.

3.43 The aspects of its wider setting which are assessed as making a positive contribution to its significance are:

1. Its historic, functional, aesthetic and associative inter-relationships with the adjacent Parish Church of St. Mary the Virgin to the south;
2. Its historic, functional and associative relationships with the town of Thornbury to the south and where, acting in concert with the adjacent parish church, it represents one of the two primary seats of power in medieval society as the administrative hub of the Manor of Thornbury;
3. Its historic and associative relationships with Sheiling School adjacent, which was originally designed and built in the 1830s as Thornbury Park on land that was formerly under the ownership and control of the castle; and
4. Its functional and historic relationships with its wider Estate and landholding, which can be identified with varying degrees of certainty from the analysis of historic maps and documentary sources.

3.44 Proposals for development of the appeal site are considered very unlikely to impact on any of 3.43 (1), (2) or (3) and therefore the description of its setting and its contribution to the asset's overall significance will concentrate on 3.43 (4) because in view of the appeal site's location, this is the only aspect of its significance likely to be adversely affected.

3.45 These aspects of Thornbury Castle’s wider setting are illustrated in **Images AC 4 to 6**, which should be reviewed in that connection.

3.46 In terms of the Castle’s wider estate and landholding [Paragraph 3.43 (4)], Emery (2006) identifies on Page 186 [**Appendix AC 4**] that:

*‘Buckingham’s crenelation licence also permitted him to enclose a park of 1,000 acres, supplemented in 1517 by a second licence for a further 500 acres. To achieve this “fayre parke hard by the castle”, 4 miles in circumference and stocked with 700 deer, he had no compunction in refusing to compensate any dispossessed tenants’.*

3.47 Franklin (1989) [**Appendix AC 8**] offers a succinct definition of the ‘medieval deer park’ which bears repeating here:

*‘The medieval deer park was an enclosure set aside for both sporting and economic purposes. It provided its owner with the pleasures of the chase – which the king and his retinue enjoyed in royal forests – and with fresh meat, and also enabled him to control the supply of timber and underwood and the pasturing of livestock. It was an important feature of the English landscape and had substantial influence upon its development, both by protecting old woodland from the encroachment of agriculture and by taking in arable, pasture and waste. Nothing demonstrated the power of feudal lords over the development of the landscape itself more clearly than their ability to make and maintain parks to the detriment of their tenants, who found access to the timber, underwood and grazing essential to their own economies suddenly restricted or cancelled altogether, and who sometimes saw their arable land enclosed within park pales and their settlements forcibly relocated’*

3.48 Rackham (1986) [**Appendix AC 9**] estimates that there may have been about 3,200 parks in England at the peak of their popularity in circa 1300, although Rackham (1986) equally notes that Cantor (1979) puts the figure for the number of parks at more like 1,800.

3.49 Cantor & Hatherly (1979) [**Appendix AC 10**] also highlight an important point of distinction between the deer parks of medieval England and the landscape parks typically associated with the landed estates of the 18<sup>th</sup> and 19<sup>th</sup> centuries:



*'The park was part of the desmesne lands of the lord of the manor and typically consisted of "unimproved land", including some woodland to provide covert for the deer. Medieval hunting parks bore little resemblance, therefore, to the later landscaped ornamental grounds, also called "parks", which were designed to improve the surroundings of the great houses of the eighteenth century.'*

- 3.50 Hence, the characteristic features of a medieval deer park generally tend to be (1) a park pale comprising either a bank and ditch or sometimes just a bank which would have been augmented with a timber fence or rail (see Rackham 1986 [**Appendix AC 9**]), (2) areas of woodland to afford cover for the deer and additionally provide timber and underwood for the manorial lord, (3) a lodge or lodges to control access to the park and also manage its resources for the benefits of the lord and their retainers and (4) areas of water, not only for the deer, but frequently also for provision of fish for the table.
- 3.51 The need to enclose the park (to control access and manage the deer herd) required the creation and maintenance of the park pale and this was therefore typically the largest expense associated with their creation. Accordingly, the watchword was economy and so for that reason, medieval deer parks tend to be recognised by their rounded or curvilinear plan forms as manorial lords looked to minimise the costs associated with the excavation of the park pale by minimising their lengths as far as possible [**Appendix AC 8**].
- 3.52 The heyday of the deer park focused on the 12<sup>th</sup> to 14<sup>th</sup> centuries and Rackham (1986) notes that: *'In the later Middle Ages and especially in the sixteenth and seventeenth centuries parks went out of use, and new parks were not made in the same numbers'*. However, the right to create a park remained a royal prerogative and hence it remained the case onwards into the post-medieval period that the creation of a park in association with your place of residence indicated (a) the wealth and control and (b) the connections and status to enable you to do so.
- 3.53 Accordingly, whilst there is no direct comparison in terms of the *form and appearance* of a medieval deer park and a Georgian and later landscape park, it should be recognised that the *connotations and subtle messaging* that the creation of these landscapes gave out were very similar. The creation of a park through the enclosure of a single, unified expanse of often productive agricultural farmland solely for the personal benefit and enjoyment of its owner (and at the expense of tenants) would clearly have been highly symbolic of the wealth and status of the individuals concerned (Fletcher 2007 [**Appendix AC 11**]).

3.54 In view of the fact that the Third Duke of Buckingham already controlled two existing parks within the Manor of Thornbury, at Eastwood and Marlwood, his ability to secure two licences to empark from Henry VIII (in 1510 and 1517) clearly serves to highlight and underline his wealth, power and political connections.

3.55 Indeed, Phillpotts (2010) [see **Appendix AC 5**] underlines this point in Paragraph 5.6 when he provides the following comments:

*'There was a pattern of late 14<sup>th</sup> and 15<sup>th</sup> century park development in which tracts of arable pasture land, which were difficult to farm because of labour shortages after the Black Death, were converted into parks. These parks were generally much larger than their 13<sup>th</sup> century predecessors, their boundaries were less clearly defined and they were not as intensively managed (Cantor 1982, 77). Often the boundaries were no longer made with substantial banks and ditches, but with deer-proof paling fences.'*

*This pattern of enclosing under-used agricultural land does not apply to the establishment of the New Park at Thornbury in the early 16<sup>th</sup> century, which was more an expression of status like its 13<sup>th</sup> century predecessors, or a precursor of the huge hunting parks which were soon to be formed by Henry VIII, at the expense of active arable and pasture fields'.*

3.56 There are no contemporary map sources or artistic depictions that illustrate the location, boundaries and appearance of the 'New' Park created by the Third Duke of Buckingham under the licences granted to him by Henry VIII in 1510 and 1517, but Phillpotts (2010) does provide some descriptive details based on the collection and analysis of documentary sources [**Appendix AC 5**].

3.57 On Pages 14 and 15, Phillpotts (2010) reports a survey undertaken at the behest of King Henry VIII following the execution of the Third Duke of Buckingham in 1521:

*'The Newe Parke: From oute of the said orchard ar divers posterons in sondery places at pleasur to goe and entre into a godly parke newly made called the newe parke, having in the same noe great plenty of wood but many hegg rowes of thorne and great Elmes. The same park conteynneth nigh upon iij myles about in the same vif dere or more.'*

3.58 So, at the time of the Duke's execution, he had created a park measuring four miles in circumference, containing 700 deer and without much in the way of woodland, but instead

having many hedgerows with elm trees; and which appears to have been accessed directly from the castle grounds.

- 3.59 Phillpotts (2010, Page 16) reports later 16<sup>th</sup> century accounts that state the Park was directly adjoined to the north-west and north-eastern sides of the Castle [Paragraph 5.12]. He also identifies that New Park contained a rabbit warren, fish ponds and three different lodges (identified as Park Farm, Parkmill Farm and Fishers Lodge) and was enclosed by a park pale around its perimeter [Paragraph 5.11 of **Appendix AC 5**].
- 3.60 At Paragraph 5.18 (Page 18), Philpotts (2010) repeats Leland's account of the New Park and Castle at Thornbury being accessed along a creek from the River Severn that the Third Duke of Buckingham canalised at least as far as Parkmill Farm in the north-west. Whilst La Trobe-Bateman [**Appendix AC 12**] reports archaeological evidence that it extended much further to the east, this is considered to be dubious and in reality it seems far more likely that the creek was canalised only to the edge of the Park at Parkmill Farm and from there the journey would have continued south up the slope on foot or horseback to access Thornbury Castle through the main gate in the north wall.
- 3.61 In that regard, it is probably noteworthy that the earliest available map (dating from 1716) identifies the canalised creek as far as Parkmill Farm and a track or footpath running south towards the north-west corner of the castle (**Plan AC 2**). The route up the slope south from Parkmill Farm to the 'Pithay' (historically the castle moat) is still adopted by a public footpath today and there is still a funnel-shaped track that runs between the north wall of the castle and the ha-ha as far as the north gate [**Images AC 7 to 8**].
- 3.62 This 1716 estate map (**Plan AC 2**) is generally accepted (Phillpotts 2010) as marking the location and boundaries of the Third Duke of Buckingham's 'New' or 'Holme' Park, which was established a little over 200 years earlier.
- 3.63 It was drawn up by Richard Newman and appears to identify the land and buildings of the former 'New Park' or 'Holme Park' acquired in a transaction dated May 1679 from the Dent family, who had previously acquired it from Sir Edward Harrington of Ridlington in an earlier transaction dated 01 June 1629 [**Appendix AC 5**]. It is recorded that this earlier transaction of 1629 comprised the disposal of:

*'1,000 acres of land, a watermill and two other messuages'.*

3.64 However, at Paragraph 7.3 on Page 21, Phillpotts (2010) records a Court of survey which was held at Thornbury in March 1583 by an order from the Lord Chancellor and the Lord Treasurer [**Appendix AC 5**], at which the following was recorded:

*'New Park consisted of 600 acres of arable, meadow and pasture land, with three lodges and twelve fish ponds. It directly adjoined the north and east sides of Thornbury Castle and its gardens. There were no woods in either New Park or the 300 acre Marlwood Park, only hedgerows.'*

3.65 So, in other words, over the 60 years following his execution, New Park had to that point apparently dwindled to some 600 acres of essentially enclosed agricultural farmland which was used for hay meadows, arable and pastoral grazing, and with no woodland, albeit with the three lodges remaining.

3.66 Phillpotts (2010) [**Appendix AC 5**] does not identify or explain how it was that (1) the Third Duke of Buckingham was granted licences to empark some 1,500 acres of farmland between 1510 and 1517, (2) this was then apparently reduced to as little as 600 acres in extent by 1583 and yet (3) Sir Edward Harrington was able to sell New Park (or Holme Park) to the Dents in 1629 and in the process still transfer some 1,000 acres of land.

3.67 In any event, if the 1716 Estate Map (see **Plan AC 2**) is overlaid on to the modern Ordnance Survey map and the area it covers measured, it is illustrated to cover an area of circa 320 hectares or 800 acres.

3.68 An overlay of the 1716 Estate Plan (**Plan AC 2**) on to the LiDAR data for the appeal site and its surroundings also identifies an area of circa 800 acres (see **Plan AC 11**).

3.69 This is of course somewhat less than the Third Duke was entitled to impark under the first licence and substantially less than the two licences provided for. It is also rather less than the 1,000 acres of New or Holme Park which Sir Edward Harrington sold in 1629, so hence the question is whether and to what extent the 1716 Estate map does accurately show the extents of the early 16<sup>th</sup> century New Park or whether instead it simply maps the remaining land within the former New Park that had not been incrementally disposed of piecemeal over the preceding centuries and which was acquired by Richard Newman in 1679.

- 3.70 Likewise, it could also indicate that, whilst the Third Duke of Buckingham was granted the right to empark some 1,500 acres of land around the castle, he in fact did not empark so much land and stopped short of that extent.
- 3.71 With that in mind, **Plan AC 11** compares the '*sketch plan of the boundaries of New Park, and the approximate location of the previous fields (approx. 1:15000)*' which is included as Fig. 1 by Philpotts (2010) with the Estate Map of 1716 (see **Plan AC 2**) and clearly shows that the outer boundaries of the two are all but contiguous.
- 3.72 This means that Philpotts (2010) equates the mapped extents of the Thornbury Park Estate from 1716 with the outermost extents of the Third Duke of Buckingham's New Park which was brought together in the early years of the 16<sup>th</sup> century.
- 3.73 However, as **Plan AC 11** shows, the circumference of this 'Park' is close to five miles, which should be compared with the 'four miles' that is identified in the available sources such as Emery (2006) [see **Appendix AC 4**]. This also encloses an area slightly less than 800 acres, once again markedly less than the 1,000 acres granted by Henry VIII to the Third Duke and substantially less than the 1,500 covered by the two licences to empark.
- 3.74 Even allowing for variations in the size of an 'acre'; defined in the Middle Ages as comprising the amount of land ploughable in one day by one man and an ox, but still exhibiting a strong degree of consistency; this is a significant difference between the historic documents and the area identified as comprising the New Park in the modern descriptions.
- 3.75 The South Gloucestershire Historic Environment Record (HER) accessed via the Know Your Place website [<https://maps.bristol.gov.uk/kyp/?edition=southglos>] appears to take a very similar stance when it states the following:

**Archaeological sites: Medieval Deer Park New Park (Holm Park) Thornbury**

PRN 3367

Name Medieval Deer Park New Park (Holm Park) Thornbury

Period MEDIEVAL

Description One of three parks (the others being Eastwood Park and Marlwood Park) of the Earls of Stafford in the area. In 1510 a licence was granted to enclose 1000 acres in 1515 a licence was granted to enclose a further 500 acres. (1) The park as currently defined covers just over 800 acres and it may be that the further 500 acres were never enclosed. Although the park was used to keep deer it was not a hunting park. (2) A licence was granted by Henry VIII to Edward Stafford, Duke of Buckingham in 1510 to impark 1,000 acres at Thornbury; a second licence was granted in 1517 to impark a further 500 acres. The deer park at Thornbury was bounded on the west by the highway, which separated it from another of the Duke's deerparks at Marlwood (3)(4)(5) Report on the Park and its bounds. (6) Scheduling Rejection: New Park was first established as a deer park by Edward Stafford, the Third Duke of Buckingham in the early 16th century. King Henry VIII granted a royal license to empark 1000 acres of the land around Thornbury in July 1510 and later granted a license to empark a further 500 acres in 1517. The park was one of three deer parks associated with the castle and earlier manor house at Thornbury (NRHE number 201683), the other two being Eastwood Park (NRHE number 201662) and Marlwood Park (NRHE number 201535), both earlier. The deer park was developed in two stages in 1508-10 and 1515-1517, and it has been suggested that the earlier boundary line from the 1508-10 development can be traced in the existing field boundaries. The works to the deer park occurred at the same time as Stafford was carrying out a scheme to repair and improve Thornbury Castle which took place in 1508 and then again in 1511, with the new park creating a setting for the house. In the early 16th century The Duke began work to add a canal (NRHE number 201692) through the park, sections of which are understood to survive, however it was not completed as, in 1521, the Duke was executed. It is also understood that

3.76 It is notable that the HER entry (see above) proposes that *'The park as currently defined covers just over 800 acres and it may be that the further 500 acres were never enclosed'*, but this needs to be compared with Paragraph 5.11 on Page 16 of Philpotts (2010) where he states that:

*'The duke received a further royal licence for a 500-acre park extension in March 1517...The additional lands taken in included tenants' arable lands; pasture in Redbrooke, Brokeland and elsewhere; and meadows in Crawele, Westham, Halyhurst, Maymede and Drypole. The extension was alternatively known as Crawle Park and probably formed the north-western end of New Park (NA SC6/HENVIII/1058).'*

3.77 Philpotts (2010) includes *'Crawele'* along the west side of the maximum extent of New Park defined and illustrated as Fig. 1 of his report, thus meaning that he believed that the 1716 Estate Map (see **Plan AC 2**) **included** this additional land within the outer boundary defined in the north by Oldbury Lane and presumably therefore that it was indeed enclosed by the Third Duke of Buckingham under the second licence to empark.

3.78 Therefore, on the basis of the available information, it seems reasonable to conclude that there are three plausible options:

(1) The current interpretation and understanding of the available documentary sources is not accurate and both licences to empark collectively made up the 1,000 acres of New Park and it never extended to the proposed footprint;

- (2) The Third Duke of Buckingham did not empark the full entitlement granted to him by Henry VIII – meaning that the extents of the Thornbury Park Estate mapped in 1716 do probably depict the extents of New Park; or
- (3) Some of the 16<sup>th</sup> century original New Park was lost over the centuries following the Third Duke’s execution and the 1716 Estate Map depicts what was left at that time as a result of piecemeal disbursement.

3.79 In that regard, it is worth noting that, whilst Historic England did not state an objection to the determination of the outline application for the appeal site and identified ‘concerns’ instead, their consultation response of 11 June 2019 [CD 2.14] presented the following breezy assessment of the appeal site’s underlying heritage context:

*‘We raised concerns relating to the neighbouring site to the east in 2011 through consultation on application PK11/1442/O, highlighting potentially harmful effects on the historic environment to the northern part of Thornbury. At this time, we brought attention to the Duke’s ambitious expansion of the Castle together with the creation of a new deer park to the north and east called New Park with associated features such as fishponds (scheduled monument to the north east) and other water courses. Indeed, it was this scheme of expansion (and his illusions of grandeur which threatened the king) which ultimately led to the Duke’s execution. We previously emphasised that despite no formal designation for this New Park, it is relatively easy to read within the landscape – in our view it is not only an important non-designated asset in its own right but as a unique example from the Tudor period of a deliberately designed piece of landscape to be seen in conjunction with the Castle providing a significant and comprehensive setting to this structure. These comments remain equally as relevant to this current application, perhaps even more pertinent given the loss of a portion of this landscape through the construction of the Park Farm development.’*

3.80 The statement from Historic England that ‘it is relatively easy to read within the landscape’ needs to be contextualised because:

1. There are no contemporary cartographic or artistic depictions of the 16<sup>th</sup> century Park and only quite limited descriptive accounts;

2. The earliest map purporting to show New Park dates from 1716 and therefore post-dates the Third Duke's execution by nearly two centuries;
3. It is also questionable to what extent the 1716 Estate map depicts the original extents of New Park when the area shown extends to less than 800 acres and the Third Duke received two licences to empark an area of 1,500 acres and Sir Edward Harrington apparently sold an area of 1,000 acres in 1629;
4. Whilst the contemporary accounts clearly state that the Third Duke of Buckingham's early 16<sup>th</sup> century New Park contained three lodges, an area of fishponds and a mill all set within a pale; they also highlight that there was an absence of woodland and a characteristic presence of hedgerows and elm trees, which may well suggest that its appearance was not markedly different to the enclosed agricultural farmland of the period (and which is potentially depicted on the later 1716 Estate Plan, **Plan AC 2**);
5. With specific reference to (4) above, there is a paucity of historic features in the contemporary landscape attributable to the original phases of the Park's creation, other than the group of fishponds identified in the Historic England letter and the evidence from place names such as 'Parkmill Farm, 'Park Farm' and 'Park Road'; and
6. Even if it is accepted that the 1716 Estate Plan (**Plan AC 2**) does illustrate the location and extents of the 3<sup>rd</sup> Duke's New Park, it is apparent from that map and the editions of the 20<sup>th</sup> century Ordnance Survey (OS) Map included as **Plans AC 7 to AC 10** that much of the east end of the estate purchased by the Newman family in the 17<sup>th</sup> century has been developed since the mid 1950s.

3.81 Indeed, under the reference Hob Uid: 201694 [**Appendix AC 13**], the Heritage Gateway records the outcome of an Historic England investigation of the New Park at Thornbury sparked by the Park Farm development and where the summary statement provides the following information:

*'A licence to first empark Thornbury Park was granted in 1510 to the Duke of Buckingham, with another licence granted in 1517 to impark a further 500 acres. The deer park at Thornbury was bounded on the west by the highway, which separated it from another of the Duke's deerparks at Marlwood (NRHE number 201535). No substantial earthworks survive of the deerpark but there are fishponds (NRHE number 201701) and an unfinished*



canal (NRHE number 201692). This park was assessed for adding to the Register of Parks and Gardens in 2011 but failed to meet the required criteria’.

3.82 The record provides the following commentary, which is still of relevance despite the passage of time:

*‘The level of documentary evidence for this site is good and the likely extent of the park is evident from field boundaries and roads recorded in historic maps. The current road system seems to largely respect these boundaries. However it is not clear to what extent the surviving boundary is medieval in origin. Most of the evidence for the boundary has been taken from documentary sources, field names and maps, both historic and current. There is some reported evidence of ditches and banks around the periphery of the site; however there has not been sufficient investigation of these features to firmly date them. Boundaries are very susceptible to damage, whether it is through field clearance, road construction and/or widening, or other developments. The survival level of the deer park boundary has not been established and on the available evidence appears poor. Furthermore, a housing development in the south-west corner of the park and other small scale development around the perimeter of the park will have impacted further on the remains of the park boundary. The archaeological potential of the deer park must, therefore, also be considered low.’*

3.83 It was therefore concluded that *‘Based on the available evidence, the deer park does not meet the tests for national importance. The former deer park, New Park, is however of considerable local importance, particularly as part of the wider landscape which developed around the Castle during the medieval and early post-medieval periods’.*

3.84 With this in mind, **Plan AC 2** reproduces the 1716 Estate Map overlaid on to the current Ordnance Survey map (as a base) and **Plans AC 3 to 10** in turn show the chronological development of the landscape at and around the appeal site during the course of the 19<sup>th</sup> and 20<sup>th</sup> centuries.

3.85 The assessment from the Historic England (then English Heritage) Designation Team calls into question not only whether the location and extents of the early 16<sup>th</sup> century New Park are *‘relatively easy to read within the landscape’*, but also whether their comments on the adjacent Park Farm development to the east do remain *‘equally as relevant’* as a result of its subsequent rejection as a Registered Park and Garden (RPG).

3.86 Nevertheless, I do agree with Historic England’s comment in the 11 June 2019 consultation response to the outline application that ‘*intervisibility from the north (Oldbury Lane) back towards the Castle is limited*’ [**CD 2.14**], with my various walkover surveys of the appeal site and surroundings between November 2021 and February 2022 showing consistently that, insofar as there is an ‘experience’ of the Castle from Oldbury Lane and the appeal site more specifically, it focuses on relatively distant glimpses of:

1. The crenelation of the one completed tower of the Inner Court, at the south-west corner, which for the most part is identifiable and recognisable amongst and above the intervening tree cover more by the white-painted flag pole and flag fluttering in the breeze adjacent to the tower of the Church of St. Mary the Virgin; and
2. The tall terracotta chimney stacks of the South Range (dated 1514) which can be seen from some angles and locations and provide a characteristically residential contrast to the building’s otherwise military form and character.

3.87 Perhaps unsurprisingly, the land within the appeal site is a barely recognisable element of Thornbury Castle’s wider setting in the landscape when looking outwards to the north from within and around the hotel complex.

3.88 From ground level, the woodland and trees around Sheiling School and forming the remains of the former Thornbury Park estate generally work in tandem with the naturally falling topography to screen out views of the land at the appeal site, which is located in the region of half a kilometre away (see **Image AC 9**).

3.89 The North Range of the Inner Court is of two storey construction and, from here, views looking out from the rooms of the first floor typically focus north-west towards Oldbury-on-Severn and the River Severn anyway because of the building’s orientation, but are also generally curtailed by the mature tree planting within and around the grounds of the adjacent Sheiling School, so the appeal site is not a recognisable element of the experience from what was historically ancillary accommodation above the kitchens. This is graphically illustrated in **Image AC 10**.

3.90 The early 16<sup>th</sup> century SW Tower rises to four storeys and a parapet. Whilst it was not possible to negotiate access on to the roof, it was possible to access the hotel bedroom on the fourth floor and take the photographs reproduced as **Images AC 11** and **12**. The former

is from the main window, which looks north-west towards the River Severn and the village of Oldbury-on-Severn and the latter is taken from the small window in the stair turret positioned on the [inner] eastern side of the tower.

3.91 The appeal site does not feature in the view out from the main window, but it is just about perceptible amongst and between the trees in the distance from the small window of the stair turret (to the left of Sheiling School). This aspect of the castle's setting is considered to make a minimal contribution to its significance due to the following:

1. The view is from the top-most window in the stair turret and is unlikely to have ever been anything other than incidental and the result of needing to gather daylight to illuminate the staircase, rather than providing a purposeful outlook from this location;
2. The contemporary sources (see Emery, 2006 [**Appendix AC 4**]) identify the top two floors of the SW Tower as having been for document storage and not for residential accommodation, as such the importance of this space is comparatively limited;
3. The orientation of the main window outwards to the north-west is unlikely to have been accidental because (a) it provides an outlook on to the Outer Court where the Third Duke's substantial retinue was intended to be quartered, (b) it looked towards Oldbury-on-Severn and seemingly the canalised creek which connected the Castle, New Park and the River Severn and (c) the Duke's historic power base and ancestral lands were principally concentrated across the river in South Wales, so therefore it might be quite reasonable for that to be the focal point for this building; and
4. It is likely that, had the Third Duke not fallen foul of Henry VIII and been executed before he could complete his castle-palace, the limited view to the north-east from this stair turret would have been curtailed or further reduced because the intention was for the western elevation of the Inner Court to be symmetrical. Hence, the SW Tower of the Inner Court would have been mirrored by an identical tower positioned at the north-western corner.

3.92 The physical evidence for the location and extents of the Third Duke of Buckingham's early 16<sup>th</sup> century New Park continue to be uncertain, with just the curving alignment of Oldbury Lane indicating the likely position and alignment of the original park pale in the north within the contemporary landscape, and the names of the two farms; Parkmill Farm to the west

and Park Farm to the east seemingly identifying the locations of not only two of the three lodges, but presumably also the water mill in addition.

- 3.93 The cartographic and documentary evidence is also rather less than certain, with the reliability of the 1716 Estate map as an accurate cartographic depiction of a deer park created two centuries beforehand at least open to doubt in view of the fact that it covers an area that is perhaps only 53% of the expanse the Third Duke was licenced to empark and may indicate what was left following the piecemeal disposal of land within the former park since his unexpected execution in 1521.
- 3.94 Even so, there is sufficient documentary evidence to confirm that (1) there was a Park at Thornbury Castle, (2) it was accessed from the castle itself and hence it must have been to the north, west and east of the castle because the land adjacent to the south was taken up and defined by the associated settlement of Thornbury, (3) the two farms adjoining the east and west edges of the appeal site comprise Park Farm and Parkmill Farm, which have been identified as being two of the 16<sup>th</sup> century lodges within the park and (4) the gently curving alignment of Oldbury Lane stands out as being out of kilter with the surrounding landscape of straight boundaries to the fields on the early maps and therefore most likely demarcates the northern fringe of the 3<sup>rd</sup> Duke's New Park.
- 3.95 Therefore, it is entirely reasonable to conclude that the appeal site is positioned within the early 16<sup>th</sup> century deer park, even though the ability to identify, understand and appreciate that within the contemporary agricultural landscape is now very limited and hinges primarily on the availability and understanding of historic accounts and documents, rather than the presence and legibility of physical features.
- 3.96 Accordingly, based on the available evidence, the land within the appeal site is assessed as representing an element of Thornbury Castle's setting that does make a contribution to its significance, albeit it is considered that the contribution is only small because it offers no more than a limited experience of the asset or the ability to appreciate its significance. It is now largely based on the identification and understanding of historic relationships that are relatively intangible in the contemporary landscape of agricultural enclosures and small wooded plantations between the castle and Oldbury Lane.
- 3.97 With this in mind, the likely impact of the appeal site's proposed development is therefore presented in the following paragraphs.

### **Step 3 of GPA3**

3.98 The proposals for the appeal site are in **outline** form only, but they are also supported by a number of plans such as the following:

- Parameter Plan: Land Use & Access [Dwg 9601, Rev G];
- Parameter Plan: Scale [Dwg 9603, Rev I];
- Parameter Plan: Green Infrastructure [Dwg 9604, Rev L];
- Illustrative Masterplan [Dwg 9410, Rev L];
- Illustrative Landscape Masterplan [Dwg 16-10-PL-201 Rev E]; and
- Design and Access Statement Re-submission Update [March 2021].

3.99 Based on their currently outline nature, it is assessed that the implementation of the appeal proposals would give rise to just a ‘small’ loss of heritage significance from the Thornbury Castle complex of assets.

3.100 This is assessed as constituting a degree of harm that would be at the lowest end of the broad spectrum of effects that is described as ‘*less than substantial harm*’ and covered by Paragraph 202 of the Framework.

3.101 Whilst it is expected that there would be some very limited loss or alteration of reciprocal views to and from Thornbury Castle as a result of the appeal proposals being taken forward and implemented, in reality the source of the impact is considered to be more the loss of historically associated farmland, which most probably fell within the boundaries of the New Park that was created by the Third Duke of Buckingham between 1510 and 1521 and was subsequently sold and re-sold in the 17<sup>th</sup> century to ultimately form part of the Thornbury Park Estate associated with the Newman family who built Thornbury Park (below).

3.102 However, the extent to which this relationship remains tangible and appreciable in the contemporary landscape is limited and relies principally on documentary and cartographic

information, which is itself not entirely consistent or reliable. It should also be borne in mind that the land at the appeal site and in its immediate surroundings has not been in the ownership or subject to the control of the castle since at least 1629 when it was in the ownership of Sir Edward Harrington, meaning that even the intangible relationship was severed some 400 years ago and as long ago as 1583 the appearance and use of the park were such that it was essentially indistinguishable from enclosed farmland, based on the evidence provided to the Lord Chancellor and Lord Treasurer.

3.103 My assessment of impact should be compared with the ‘third party’ advice that was sought by the Council from Tim Murphy at Place Services (see **Table AC 1**), who assessed in his letter dated 21 December 2021 [**CD 2.15**] that:

*‘...the built form has been sited in such a way that the setting/significance of these assets will not be adversely affected. This is either because the development will not be affected in key views or the layout has prevented urbanising changes in the setting of the heritage assets’.*

3.104 The Council’s Conservation Officer’s subsequent response [**CD 2.13**] is that Tim Murphy was not ‘*fully aware of the historic and spatial relationship between the site as an historic deer park and the Thornbury Castle building group to the south*’.

3.105 Even so, it is true to conclude that (1) Mr Murphy was entirely at liberty to make the assessment that he did and equally he was fully entitled to apportion weight to this historic relationship (or not) as he saw fit and appropriate and (2) even if Mr. Murphy was not aware of this historic relationship and should have been, the realistic conclusion to draw is that this contribution to significance was unlikely to significantly increase his assessment of the harm which would be caused by the appeal proposals.

3.106 Set within this context, the Council’s own Conservation Officer identifies the harm to the castle as being at the ‘*lower end of less than substantial*’.

#### **Step 4 of GPA3**

3.107 There are no additional measures, over and above those identified above as forming part of the appeal proposals, which can be employed to either mitigate or compensate for the small adverse impact that the development would generate.

### **The Parish Church of St. Mary the Virgin [List Entry 1128789]**

- 3.108 This Grade I listed building is located circa 585 metres south of the southernmost point of the appeal site's boundary.
- 3.109 As a Grade I listed building, it is considered to be of 'exceptional' interest, also represents one of the top 2.5% of listed buildings in England and; in the same way as Thornbury Castle above; comprises an 'asset of the highest significance' within the NPPF.
- 3.110 The parish church (**Image AC 13**) was first designated as a *Building of Special Architectural or Historic Interest* on 30 March 1960; this listing being amended on 17 December 1984 according to the listing citation reproduced for the Inquiry as **CD 6.3**.

#### **Step 2 of GPA3**

- 3.111 It is assessed that the majority of the asset's heritage significance derives from the architectural, historic and archaeological interests of its built form and fabric, reflecting its statutory designation as a Building of Special Architectural or Historic Interest at the highest of the three recognised grades.
- 3.112 Its architectural interest is considered to derive from the fact it is a fine and representative example of a medieval parish church, with aspects of its external and internal fabric derived from the key periods in its chronological development which takes in the 12<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> centuries and culminates in its 19<sup>th</sup> century restoration.
- 3.113 Externally, this architectural interest is in part carried by the impressive and imposing tower at the west end, with South Gloucestershire Council's most recently adopted Conservation Area Advice Note (2004) [**CD 6.5**] stating that:
- 'The Church displays a superb western tower with pierced battlements. The size and grandeur of the Church illustrates the past importance of Thornbury.'*
- 3.114 La Trobe-Bateman [**Appendix AC 12**] identifies the western tower as not only dating from the mid 16<sup>th</sup> century and being the last element of the church to be completed, but also as representing 'a copy of the mid-15<sup>th</sup> century tower of Gloucester Cathedral, with pierced battlements and pinnacles'.

3.115 However, Verey (2002) [**Appendix AC 2**] provides a more detailed description of the tower and states that:

*'like most of the church, [it] is probably late C15; of four stages, with diagonal buttresses, image niches, several anthropophagus gargoyles, and a splendid crown of Somerset type comparable to that at St. Stephen, Bristol. This crown, which may be later (Parker dates it to as late as c.1540), was rebuilt by F.W. Waller, 1889, apparently in facsimile, both battlements and corner pinnacles have open tracery work, the latter with ogee caps'.*

3.116 As well as the impressive scale and sophistication of the building's form, experienced and appreciated in the external elevations, its architectural interest is also considered to derive to some extent from the quality and sophistication of its interior, where the Historic England listing citation [**CD 6.3**] highlights the following aspects:

*'Clerestoried Nave of 6 typical Perpendicular bays. North aisle has square headed windows. South aisle has 4-centred arch headed windows with 'bisected drop' tracery. 1848 roof. Chancel arch and east window are C19. South wall has decorated piscina and triple sedilia, all under cinquefoil arch. Perpendicular pulpit approached by Victorian stair. Norman/Transitional front. Victorian glass by Thomas Willement, 1840's and 1850's. Monuments. North chancel, Sir John Stafford 1624. Brass in chancel to Tyndalls, 1571, only wife's survive. South chapel, in Perpendicular recess is 1648 to Roger Fowke. Other C17 and C18 tablets in the aisles, especially John Atwells, 1729.'*

3.117 The Parish Church of St. Mary the Virgin's historic interest is assessed as being derived in the first instance from its more than 900 years of history and development, where it dates from at least the early years of the 12<sup>th</sup> century, but potentially from before the Norman Conquest, with La Trobe-Bateman (1996) reporting evidence that there may have been a minster or 'superior' church at this location in the Anglo-Saxon period [**Appendix AC 12**].

3.118 The Church's historic interest is also intricately bound up with the rise and fall of the Stafford family, who first came to hold the Manor of Thornbury in 1343 following the death of the last of the Clares (who were the earls of Gloucester) at Bannockburn, a period of confiscation by the Crown in the 1320s and then its descent from Hugh d'Audley to his son in law, Ralph Stafford. This descent is described in Emery (2006) and Philpot (2010) and these two sources are included as **Appendices AC 4 & 5**.



- 3.119 Ralph Stafford's descendants, the Earls of Stafford and the Dukes of Buckingham, would continue to hold the Manor of Thornbury into the 15<sup>th</sup> century in spite of periodic executions and wardships by the Crown, with Jasper Tudor, the Duke of Bedford and Earl of Pembroke, holding the manor in the latter years of the 15<sup>th</sup> century and ultimately dying in the manor house adjacent to the Church in 1495 [**Appendix AC 5**].
- 3.120 This close relationship between the Stafford family and the church is reflected in the identification of the south aisle as having been built by Hugh, Lord Stafford (1386) and the use of Edward Stafford's 'Stafford knot' device in tracery and hoodmoulds within the Church's interior. He held the manor in the early 16<sup>th</sup> century and, in the tradition of Fotheringay, Tattersall and Warkworth, Edward, the Third Duke of Buckingham, received a licence from Henry VIII in 1514 to found a 'college of priests' focused on the Church. This was not apparently enacted, but it is however documented that the Third Duke did build a timber gallery connecting Thornbury Castle with the church so that the close associations between the church and manor would be cemented [see **Appendix AC 4**].
- 3.121 The Church also derives a degree of interest from its documented associations with local Victorian architects such as Francis Niblett, who is recognised as being a great admirer of the work of August Pugin (designer of the Houses of Parliament), and F.W. Waller, who was the resident architect to the Dean and Chapter of Gloucester Cathedral in the latter years of the 19<sup>th</sup> century (see Verey 2002, [**Appendix AC 2**]).
- 3.122 The asset's archaeological interest is considered to derive from the potential of the building and the ground beneath it to inform and enhance our understanding of the Church's origins and chronological development. In turn, this may inform and enhance our knowledge of the origins and chronological development of the associated settlement at Thornbury, which appears to have first focused on the sub-circular green to the south of the Church, before being relocated further south in the 13<sup>th</sup> century and expanding back northwards once again thereafter, as is described by La Trobe-Bateman [**Appendix AC 12**].
- 3.123 In that regard, La Trobe-Bateman [**Appendix AC 12**] identifies that there is evidence for a Church on this same site in the Anglo-Saxon period, although there are no features or remains of pre-Norman date recognisable within the fabric of this existing building.
- 3.124 La Trobe-Bateman also identifies documentary evidence for a church on this site from at least the early years of the 12<sup>th</sup> century, as it was granted to Tewkesbury Abbey in a royal

charter of 1106. However, the earliest elements of the standing fabric date from the latter end of the 12<sup>th</sup> century and thus suggest that the earlier structure was substantially rebuilt in the Transitional style [**Appendix AC 12** and **CD 6.3**].

3.125 The chancel dates to around 1340 (La Trobe-Bateman, 1996) and is noted as having survived the substantial rebuild of the Church which took place in the late 15<sup>th</sup> century, thus providing the ability to experience, understand and appreciate the development of this building through the medieval period and onwards to the present day, in spite of the extensive restoration which took place in the Victorian period.

3.126 Whilst the majority of the Church's significance is assessed as being held by its built form and fabric, its wider setting is nonetheless considered to make a substantial (but minority) contribution to the totality of its significance, where the following are assessed as being the key elements in that respect:

1. Its historic functional and historic relationships with the sub-rectangular, stone-walled churchyard, which affords the best position from which to experience and appreciate the architectural, archaeological and historic interests which underpin its significance and justify its designation as a Building of Exceptional Architectural or Historic Interest;
2. Its close spatial, functional and aesthetic inter-relationships with Thornbury Castle immediately to the north because these two buildings define the two focal points of domestic power in the Middle Ages and because the patronage of the Earls of Stafford and Dukes of Buckingham can be experienced and appreciated within the building's internal fabric, as well as in the physical connection between the south wall of the castle's Outer Court and the north side of the church that were formerly connected by a walkway described in contemporary accounts [**Appendix AC 4**]. These relationships can clearly be experienced and appreciated in views looking up the slope to the south-east from the Public Footpath connecting Oldbury Lane and the town centre and also looking north-east from the bend in Castle Street;
3. Its historic functional and associative relationships with the historic town of Thornbury to the south, for which it has formed the parish church since the Middle Ages and in which it seems to have represented a key focal point in the foundation and subsequent expansion of the settlement, with La Trobe-Bateman [**Appendix AC 12**] identifying the green to the south as representing its original focus, before it was relocated further

south through the establishment of the Borough in the 13th century. The close nature of the relationship can be clearly experienced and appreciated in views north from within the core of the historic town (such as from Castle Street), as well as adjacent from the 'closes' to the west that formed part of the wider agricultural hinterland which supported the medieval and later settlement; and

4. Its historic functional role as the focal point for spiritual and communal activities within the Parish of Thornbury in the Middle Ages and onwards to the present day, where its tower provides a highly recognisable landmark which articulates the position of the settlement in the adjoining landscape.

3.127 These aspects of the asset's setting are illustrated in **Images AC 14 to 17** and these should be consulted in that connection.

3.128 The appeal site is located nearly 600 metres to the north of the parish church, but does nonetheless fall within the asset's wider setting and represents an aspect of that setting which does make a positive contribution to its significance, albeit a **small** one.

3.129 The appeal site is generally situated on lower lying land at a height of between 16 and 9 metres Above Ordnance Datum (AOD), compared with the parish church which stands at the north end of a low ridge at a height of approximately 30 metres AOD.

3.130 The relatively steep drop to the north of the Castle and the screening effect of the buildings within that complex that close off the northern side of the churchyard combine together to ensure there is no visual relationship between the Church and the land within the appeal site away to the north-east from ground level at least.

3.131 These same factors also combine to reduce the 'experience' of the Church from within and around the appeal site to typically long range and distant views of the tower, which is nonetheless a distinctive and characteristic landmark.

3.132 Views of the Grade I listed church from within and around the boundaries of the appeal site are included as **Images AC 18 to 21**.

3.133 Public access to the appeal site is limited, with there being just a single Public Footpath running down the east side of Parkmill Covert in the north west corner, crossing eastwards

through the southernmost field to pass into the adjacent Park Farm housing development and connect into the wider footpath network. It is also possible to walk along Oldbury Lane to the north of the appeal site, although this is a surprisingly busy vehicular route and a degree of bravery is required to do anything other than drive along this road defining the north side of the appeal site.

3.134 The Public Footpath and Oldbury Lane both afford relatively distant glimpses of the top of the tower of the Parish Church of St. Mary the Virgin rising above the mature trees within its churchyard and around the castle that stands in front to the north. Together they serve to define and characterise its immediate landscape setting.

3.135 The vast majority of the appeal site comprises private farmland that is inaccessible to the general public. It affords a 'variable' experience of the Church, with the quality of the views primarily determined by (a) the separation distance and (b) the extent of the woodland and hedgerow tree cover in the patchwork of enclosed fields and wooded copses that makes up the intervening landscape.

3.136 These views from and across the enclosed agricultural farmland within the appeal site are considered to make no more than a 'small' contribution to the heritage significance of the Grade I listed Church on the basis of the following factors:

1. They are not 'designed' views which were specifically intended to highlight, express or capture the building's architectural or historic interest;
2. There is no indication that they were even 'intentional' and instead appear to derive from the topographic position of the settlement of Thornbury in relation to the lower lying land to the north and west;
3. They appear to be incidental and express nothing more than the basic functional inter-relationships between the agricultural farmland that forms the outer elements of this historic parish and the Church as the central focus, in that sense not marking out the appeal site as being of any greater importance to the Church than any other area of agricultural farmland in the surrounding area; and
4. They are also not the best from the landscape to the north of Thornbury, with the views from the Public Footpath west of Parkmill Farm and connecting Oldbury Lane with the

town centre via the 'Pithay' considered to be far more impressive and representative of the asset's close spatial and functional associations with Thornbury Castle; this no doubt being a reflection of the fact this appears to have been an historic route towards the castle from the canalised 'Pickedmoor Lane' Rhine that leads inland from the inlet which is known as Oldbury Pill.

3.137 Insofar as they make a contribution to the asset's significance, it is because they provide some limited appreciation of (1) the parish church's architectural interest manifest in the approach to the form and design of its medieval tower and (2) its historic and functional relationships with the adjacent Thornbury Castle; the top of the one completed tower being experienced in many of the same views and where it is identified by the flag fluttering in the breeze; hence highlighting and underlining the roles that these two buildings played in the administration and organisation of Thornbury as an historic medieval town.

### **Step 3 of GPA3**

3.138 The implementation of the appeal proposals would not result in any direct impact on the form and fabric of the Grade I listed Church and therefore those elements which make up the majority of its significance as a heritage asset would be unchanged and undamaged.

3.139 At the same time, the inter-relationships between the Church and its sub-rectangular and stone-walled churchyard enclosure, the adjacent Thornbury Castle and the medieval and later town that is focused predominantly to the south, which have been identified above as representing elements of its wider setting that contribute positively to its significance as a designated asset, would equally remain intact and undamaged if the appeal proposals are taken forward and implemented.

3.140 Insofar as the implementation of the appeal proposals would give rise to a loss of heritage significance from the Grade I listed Parish Church of St. Mary the Virgin, it would be the loss and/or alteration of 'inwards' views of the western tower from Oldbury Lane and the public footpaths either side of the appeal site.

3.141 These generally long range views, which provide only a limited appreciation of the listed Church's exceptional architectural and historic interest; expressed in terms of the top of the tower rising above the surrounding buildings and trees occupying the toe-end of the low ridge which Thornbury adopted at its foundation; are determined to make no more than a

small contribution to the totality of the Church's heritage significance and hence the loss of significance this would cause can only be **small** also.

3.142 Of course, the impact of the appeal proposals on the Church; expressed in terms of the loss and alteration of views looking south from Oldbury Lane and the public rights of way that cross the appeal site and its surroundings; must be seen in a context where the completion of the proposals would also serve to create new publicly accessible views of the Church, particularly (but by no means solely) from the large area of Public Open Space (POS) at the southern end of the development.

3.143 At the same time, it must also be acknowledged that the appeal proposals are submitted in outline form and therefore future Reserved Matters applications could come forward and be designed in detail to positively respond to and engage with existing views towards the Church (as highlighted in the illustrative masterplan); in order that the impact of the appeal proposals on the significance of the Grade I listed building and the harm which would be caused in that respect would be minimised as far as possible.

3.144 Nevertheless, my professional opinion is that the implementation of the appeal proposals would cause a small degree of harm to the Grade I listed Parish Church of St. Mary the Virgin, which would equate to *less than substantial harm* in terms of the Framework and where that harm would lie at the 'lowest end' of the spectrum which that definition covers.

3.145 Once again, my assessment of impact should be compared with the 'third party' advice that was sought and obtained by the Council from Tim Murphy at Place Services (**Table AC 1**), who assessed in his letter dated 21 December 2021 [**CD 2.15**] that:

*'...the built form has been sited in such a way that the setting/significance of these assets will not be adversely affected. This is either because the development will not be affected in key views or the layout has prevented urbanising changes in the setting of the heritage assets.'*

3.146 Even though the Council's Conservation Officer, Rob Nicholson, subsequently takes issue with this advice in his memorandum to Eileen Paterson from 13 January 2022 [**CD 2.13**], he still concludes that the harm would be at the '*lower end of less than substantial*'.

#### **Step 4 of GPA3**

3.147 There are no additional measures, over and above those identified above as forming part of the appeal proposals, which can be employed to either mitigate or compensate for the small adverse impact that the development would generate.

#### **Sheiling School [List Entry 1312586]**

3.148 This Grade II listed building is located 280 metres to the south of the southernmost corner of the appeal site, as illustrated on **Plan AC 1**.

3.149 Sheiling School was first designated as being a *Building of Special Architectural or Historic Interest* on 21 September 1952; this most recently being amended on 17 December 1984 according to the listing citation reproduced for the Inquiry as **CD 6.4**.

3.150 Photographs showing the form and appearance of the Grade II listed building are included as **Images AC 22** and **23**.

#### **Step 2 of GPA3**

3.151 Sheiling School is assessed as deriving the majority of its significance from the architectural and historic interest of its built form and fabric, hence reflecting its statutory designation as a Building of Special Architectural or Historic Interest.

3.152 The building's historic interest principally stems from the fact that it dates from the 1830s and appears to be the first house built within the 'Thornbury Park' Estate, which seemingly arose in the early 17<sup>th</sup> century following the disposal of the land within the early 16<sup>th</sup> century New Park established around the early 16<sup>th</sup> century Thornbury Castle.

3.153 Documentary research (by Thornbury & District Museum) identifies a legal dispute, which appears to have involved Henry, the 5<sup>th</sup> Baron Stafford (who still owned Thornbury Castle) and Sir Edward Harrington, who owned Thornbury Park.

3.154 This is dated 1629 and highlights that the castle and the land forming its former deer park were clearly in separate ownership by this date [see **Appendix AC 14**].

- 3.155 However, it is very likely that Thornbury Castle and the former ‘New’ or ‘Holme’ Park were already divided into separate ownership by the 1570s under the auspices of Edward Lord Stafford [see **Appendix AC 14**].
- 3.156 A document dated 6th May 1596 [see **Appendix AC 14**] appears to record the sale from William Glover to Sir Edward Harrington of ‘*Castle Park and divers other premises*’ and the indications are that William Glover obtained it following an earlier disposal which occurred on 30 May 1572, so in reality there is sufficient reason to believe that the Castle and the Third Duke of Buckingham’s ‘New Park’ were already in separate ownership by at least the later years of the 16<sup>th</sup> century.
- 3.157 A document of 01 June 1629 identifies the sale of ‘New’ Park or ‘Holme’ Park, which may possibly represent the 3<sup>rd</sup> Duke of Buckingham’s original deer park or the remnants which had not been disposed of since his execution by King Henry VIII in 1521, from Sir Edward Harrington to John Dent. This is identified as comprising 1,000 acres of land, a water mill and two tenements/messuages [see **Appendix AC 5**].
- 3.158 The land and buildings of the former ‘New Park’ or ‘Holme Park’ were later acquired by one Richard Newman Esq in a transaction dated May 1679, but there is some evidence that he was not actually able to fully own and occupy the land until the death of its then occupant, which turned out to be 1710.
- 3.159 Richard Newman is recorded as being created a baronet in 1699 and he purchased the Thornbury Park Estate in Thornbury for his use and that of his heirs (for £4,500) despite living elsewhere (Fifehead Magdalen) and farming the land through tenants.
- 3.160 It is Richard Newman who commissioned the estate map of 1716 (**Plan AC 2**), which forms the earliest available map of the land around Thornbury Castle.
- 3.161 Phillpotts (2010) records that Thornbury Park remained in the possession of the Newman family up until 1914 [see **Appendix AC 5**] and then later became the Sheiling School, which still occupies the House built for Henry Wenman Newman who inherited the Estate in 1829 and constructed his residence set within some 24 acres of grounds. The school is recorded as having purchased the property in 1952 for the sum of £10,000 [**Appendix AC 15**].



- 3.162 In terms of its architectural interest, the listed building is considered to represent a well-appointed and well preserved late Georgian/Regency villa with its principal elevation facing north-east, the rear elevation facing to the south-west and with the ancillary service ranges arranged to the south-east beside the main entrance driveway.
- 3.163 The principal elevation, which possesses tri-partite sash windows on the ground floor flanking the centrally positioned ionic porch, faces to the north-east and greets the end of the driveway in from Park Road. Similar tri-partite sashes are provided on the rear facing elevation, which also exhibits the remnants of a cast iron verandah on the ground floor. A lower two storey wing is orientated to the south-east and the side elevation facing north-west has more modest ornamentation.
- 3.164 Verey (2002) [**Appendix AC 2**] describes the building as being located *'in its own grounds, ¼ mile NNE of the church. A small, square, classical villa, built 1832-6 for Henry Wenman Newman. E front of three wide bays, with central four-column ionic porch, and incised full-height corner pilasters. Tripartite ground floor windows. Hipped slate roof with overhanging bracketed eaves. Cast iron central rear staircase. Lower s wing. Further s the former stables with central skylight. Now the Sheiling School , Camphill Community, with many bungalow 'residences' by Feilden Clegg Design c.1990 built in the grounds'*.
- 3.165 The building is not assessed as possessing or exhibiting any archaeological interest, as it represents a single phase of residential construction dating from the middle decades of the 19<sup>th</sup> century.
- 3.166 Sheiling School is also not assessed as possessing or exhibiting any particular artistic interest, although it is noted that Philpot (2010) does reproduce at Fig.5 a contemporary depiction of *'Thornbury Park, The Seat of H.W. Newman Esq'* prepared by William Gauci and illustrating the rear south west facing elevation from within the grounds looking north east [see **Appendix AC 5**].
- 3.167 This is no doubt a stylised depiction of the House for its owner (H.W. Newman) and so, whilst it accurately illustrates the cast iron verandah and other aspects of the building's rear elevation, the roaming livestock and extensive ornamental landscape planting are likely to be more illustrative than definitive.

3.168 Even so, the black and white print serves to present the building as being a sophisticated and proper country residence for a gentleman of means, with the parkland setting of lawns, plantations and beasts no doubt intended to present the modest villa to the best extent possible and get across the point that the House's owner formed part of the land-owning classes who were able to control and manipulate the land around their properties for no more than aesthetic purposes.

3.169 The building's setting is assessed as making up the 'minority' portion of its total significance as a designated heritage asset, where the following elements are identified as being the key contributors:

1. Its close spatial and functional inter-relationships with the ancillary service ranges and associated outbuildings to the south east and positioned to the west of the entrance drive running northwards from Park Road past the adjacent buildings of Thornbury Castle on the left;
2. Its functional, aesthetic and associative inter-relationships with the surrounding lawns, trees and shrubs historically focused within a well-defined and sinuously bounded enclosure focused on the eastern corner of a broadly rectangular, north-west to south-east aligned designed landscape separated and enclosed from the adjacent areas of settlement to the south and east;
3. Its spatial and aesthetic relationships within the wider 'informal' parkland of lawns and scattered trees and clumps that extends to the north-west and also wraps around the north side of Thornbury Castle to the south-west because these areas were no doubt intended for the private and secluded enjoyment of the Newmans, their friends and contacts and these areas were also no doubt created and maintained to highlight and show off the architectural and historic interest of the House to the fullest extent. Whilst the distinction between (1) and (2) has been lost to some extent by the use of the spaces and development of the buildings as a school in the later 20<sup>th</sup> century, it is still true to say that it is the immediately adjoining spaces of its former designed landscape that give the best experience of the listed building and the best appreciation of the architectural and historic interests underpinning its statutory designation;
4. Its historic and associative relationships with Thornbury Castle to the south-west, with these relationships clearly experienced and appreciated in both directions despite the

mature trees which define and characterise the boundary between the two properties. As set out in the preceding paragraphs, the building now known as ‘Sheiling School’ was the first House to be built within the Thornbury Park Estate, which came into being following the disposal of the Third Duke of Buckingham’s early 16<sup>th</sup> century enclosed deer park in the late 16<sup>th</sup> or early 17<sup>th</sup> century and in the process turned history on its head in leaving Thornbury Castle almost landless and affording a large and extensive landholding to what is a relatively modest 19<sup>th</sup> century villa; and

5. The Thornbury Tithe map of 1841 and 1<sup>st</sup> edition 6” Ordnance Survey map of 1881, which are reproduced as **Plans AC 4** and **5**, identify that Henry Wenman Newman used the patchwork of otherwise agricultural enclosures under his control to the north of his parkland to create a well defined arrangement of small, circular plantations as eye-catchers in the low-lying farmland beneath his House and linear plantations running north and east beyond, in order to enclose and frame these views and distinguish this designed ‘tertiary’ setting from the more typical agricultural landscape beyond, which represent a more utilitarian aspect of the wider estate (**Plan AC 4**). The remnants of this informal arrangement of plantations can still be discerned in the wider landscape beyond the extents of the school grounds to this day.

3.170 These aspects of the Grade II listed building’s wider setting are illustrated in **Image AC 6** and **24** to **27**.

3.171 At the same time, there are aspects of the Grade II listed building’s wider setting, which are assessed as detracting from its significance; e.g.:

1. The various buildings erected within the grounds to the east and south of the House during the later 20<sup>th</sup> century to underpin the operation of Sheiling School, which have reduced the spaciousness of Thornbury Park’s immediate parkland setting and in the process denuded this ‘key’ space of its historic form and character;
2. The proximity of the Castle School to the east of the designed and enclosed parkland around the listed building, where the associated playing fields west of the buildings extend up to the boundary of the park and not only introduce a degree of noise into the internal spaces of this designed landscape, but also bind it into the modern urban fabric of the town too; and

3. The existing and ongoing implementation of the 'Park Farm' development which has further enclosed the listed building from the wider agricultural landscape on its north-east side and therefore introduced modern residential houses into views looking out to the north-east from the principal elevation.

3.172 These aspects of the building's setting are illustrated in **Images AC 28 to 30**, which should be considered in this connection.

3.173 The land within the appeal site is considered to fall within the setting of Sheiling School as it forms part of the surroundings in which the asset is experienced or can be experienced from the asset.

3.174 Nevertheless, the land within the appeal site is assessed as representing an aspect of this designated heritage asset's wider setting that makes just a 'small' contribution to its overall significance and is considered to derive from the following aspects:

1. The southernmost field within the appeal site, in common with the ongoing Park Farm development to the east, contains one of the circular plantations identified on the Tithe map and 1881 first edition 6" Ordnance Survey map (**Plans AC 4 & 5**), whilst a second formerly stood on the south-eastern boundary and a third still stands in the remainder of the field beyond the southern edge. In common with the remaining example retained within the open space at the centre of the ongoing Park Farm development to the east, the remaining two plantations are now in very poor condition and the last few trees are identifiable at a considerable distance by the mistletoe infestation;
2. The northern and western edges of the southernmost field are also still defined and enclosed by substantial plantation belts established by HW Newman in the 1830s. These are ditched on each side in order to presumably ensure good drainage and separate the trees from grazing livestock; but in the process still continue to restrict outwards views from Sheiling School into the wider farmland landscape which was historically located further to the north. These outward views are principally from the less ornate return elevation;
3. Henry Wenman Newman's creation of 'aesthetically manipulated' farmland around Thornbury Park (now known as Sheiling School) and extending north to the southern field within the appeal site is now experienced and appreciated in terms of the

availability of ‘inwards’ views from within that southernmost field looking southwards and up the rising ground towards the 19<sup>th</sup> century villa within its immediate parkland setting comprising trees, clumps and lawns. These views are principally obtained from the Public Footpath which follows the north side of the stream running west from the Park Farm development towards Parkmill Covert because this is the only publicly accessible land within this area of the appeal site. It is noted that southwards views towards the Grade II listed building from within the central and northern aspects of the appeal site are either restricted or curtailed altogether by the intervening plantations and mature vegetation; and

4. The farmland within the centre and north of the appeal site boundary possesses an underlying ‘historic functional’ association with Thornbury Park and therefore the Grade II listed Sheiling School because analysis of the Tithe apportionment illustrates that it formed part of the wider Thornbury Park Estate which was acquired by the Newman family in the later years of the 17<sup>th</sup> century [**Appendix AC 5**] and inherited in the early part of the 19<sup>th</sup> century by Henry Wenman Newman, with the latter identified as the owner of the various parcels.

3.175 The respective views to and from the appeal site (the southernmost field) are reproduced in **Images AC 31** and **32**.

3.176 Details of land ownership, occupation and use within and adjoining the appeal site detailed in the Tithe apportionment of 1841 (**Plan AC 4**) are presented in **Table AC 2** below:

**Table AC 2:** Details from the 1841 Thornbury Tithe Apportionment.

<b>Parcel No.</b>	<b>Owner</b>	<b>Occupier</b>	<b>Name/Use</b>
2581	Henry Howard	William Jill	Eight acres
2601	James Downes	James Downes	Breaklands
2602	James Downes	James Downes	Breaklands
930	Henry Newman	Mapsom Taylor	Broad Lease
929	Henry Newman	Mapsom Taylor	Seven acres
928	Henry Newman	Mapsom Taylor	Part Broad Lease
927	Henry Newman	Mapsom Taylor	Ten Acres
931	Henry Newman	Mapsom Taylor	Wet Meads
926	Henry Newman	Mapsom Taylor	New Tyning
918	Henry Newman	Mapsom Taylor	Rushy Popley

Parcel No.	Owner	Occupier	Name/Use
919	Henry Newman	Henry Newman	Circular Plantations in Rushy Popley
923	Henry Newman	Henry Newman	Plantation in Wet Mead
924	Henry Newman	Henry Newman	Plantation
925	Henry Newman	Henry Newman	Plantation in Rushy Popley

3.177 However, as far as the farmland in the centre and north of the appeal site is concerned, the contribution which this historic functional relationship makes to the significance of the Grade II listed building is considered to be no more than minimal because of the following factors:

1. It is identified as being agricultural farmland in the Tithe apportionment, with the Tithe map and the subsequent Ordnance Survey map editions giving no apparent indication that it contained designed features;
2. It is no longer in the same ownership as the Grade II listed building, with the Newman family having disposed of the Estate in the early years of the 20<sup>h</sup> century and with the House being acquired for development as Sheiling School in 1952;
3. As a result of Thornbury Park's conversion into the Sheiling School in 1952, the farmland within the centre and north of the appeal site ceased to have a functional association with the listed building 70 years ago;
4. There is nothing in the form or the appearance of the enclosed fields of agricultural farmland within the centre and north of the site to identify or elucidate a functional connection between it and the listed building;
5. There are no distinctive features; such as gates, stiles or consistent building forms or architectural treatments; which might connect the farmland in the centre and north of the appeal site and the Grade II listed building further to the south; and
6. For the most part, there are no visual inter-relationships between the farmland and the Grade II listed building with which to make this intangible historic connection a tangible inter-relationship that can be identified, understood and appreciated in the field, as a result of the screening effect of the intervening wooded plantations, hedgerows and trees etc.

3.178 For the most part, the appeal site's contribution to the significance of the Grade II listed building is expressed through the visual and aesthetic connections between Thornbury Park and the southernmost field, where the 'designed' features identify and illustrate the field and the adjoining plantations as representing the northernmost elements of the parkland setting established around the House by H.W. Newman during the mid 1830s.

### **Step 3 of GPA3**

3.179 The proposals for the appeal site's development, and forming the basis of this appeal, are submitted in outline form, but even so include the following elements:

1. The southernmost field within the boundary would be retained entirely undeveloped as a large area of Public Open Space (POS), with the expectation being that a suitably worded planning condition would be agreed with the Council to design and deliver appropriate enhancements to the trees and grassland to better reflect the historic design intentions of H.W. Newman to form a tertiary outer setting to his House;
2. The Illustrative Landscape Masterplan proposes to retain and (where possible) also strengthen the woodland plantations framing this southernmost field, thus continuing to restrict views from the listed building and its environs into the built elements of the development in the centre and north beyond; and
3. New built form is to be contained within the fields to the north of the plantation belt defining the north side of the southernmost field and also the existing SUDS basin to the adjacent Park Farm development, the margins of which would be enclosed and defined with additional landscape planting to blend the development into its wider surroundings.

3.180 As a result, it is assessed that there would be no loss of significance from the Grade II listed Sheiling School resulting from the implementation of the appeal proposals.

3.181 There would be no 'direct' impact on the building's built form and fabric, which make up the majority of its significance, whilst in addition the approval of the appeal proposals would have no bearing on the elements of Sheiling School's wider setting that make the greatest contribution in that respect.

- 3.182 Whilst it is possible that there may still be glimpses of built form within the centre and north of the appeal site, such as from upper floor windows in the side elevation of the House through or over the intervening trees and vegetation, these are expected to be distant, filtered and certainly no more pronounced than existing views of the buildings within the adjacent Park Farm development.
- 3.183 At the same time, proposals for development of the appeal site would bring forward increased public access to the southernmost field, where at the moment it is only formally possible to cross the appeal site using the Public Footpath connecting the Park Farm development with Parkmill Covert and farmhouse. In turn, this would deliver increased public engagement with and enjoyment of the historic environment as a result of opening up improved views towards the Grade II listed school, obtained from a retained and enhanced element of its former designed landscape.
- 3.184 Finally, whilst the implementation of the appeal proposals would lead to the development of agricultural farmland which historically formed part of the Thornbury Park Estate owned by the Newman family up until the early years of the 20<sup>th</sup> century, this is considered to make a minimal contribution to the heritage asset's overall significance and would in any event not be lost in spite of the change in land use (because of course history is inalienable). In other words, there would continue to be an historic relationship between the listed building and the land within the appeal site regardless of its use.
- 3.185 It is worth highlighting that Tim Murphy of Place Services reached the same conclusion that Sheiling School would not be harmed following his instruction to provide a second opinion on the heritage aspects of the proposed development [**CD 2.15**] to the Council. It is known that Mr. Murphy's review and assessment of the heritage issues associated with the outline planning proposals extended to include a visit to Sheiling School as well as walking the footpaths within and around the appeal site to the north [**Appendix AC 16**].

#### **Step 4 of GPA3**

- 3.186 Notwithstanding the assessment and conclusions above, it is considered that additional enhancement could be delivered through the design and provision of one or more interpretation panels in the POS at the southern end of the development, in order to identify and convey the significance of Thornbury Park (now Sheiling School) and its role in the



chronological development of the deer park since its creation by the Third Earl of Buckingham in the early 16<sup>th</sup> century.

3.187 This enhancement could be secured by an appropriately worded planning condition and delivered as part of the Open Space Strategy, with consideration afforded to the way in which the on-site improvements mesh into and fit within the wider network of footpath links with the historic town centre to the south and particularly the many interpretation boards communicating the significance of its historic buildings and spaces, such as the green south of the Church and the 'closes' to the west of High Street.

### **Thornbury Conservation Area**

3.188 The northernmost extent of the Thornbury Conservation Area is located 70 metres south of the southernmost corner of the boundary to the appeal site.

3.189 The conservation area was first adopted by the Council in July 1975 and expanded again in March 1984. The boundary was reviewed on 04 July 2000 and expanded further. It is described in *Advice Note 12: Thornbury Conservation Area [CD 6.5]* that is highlighted on the front page as being approved on 29 March 2004.

### **Step 2 of GPA3**

3.190 The first paragraph of the Council's 'Advice Note 12' (2004) states that: *'Thornbury still retains its special historical character as a medieval market town despite much new residential and commercial development'*.

3.191 Hence, the majority of the conservation area's significance is bound up in the buildings, spaces and roads first identified as representing an Area of Special Architectural or Historic Interest in 1975, then expanded twice in 1984 and 2000, where this significance is considered to be principally manifest in this designated asset's architectural, historic and to a lesser extent archaeological interests.

3.192 The conservation area's architectural interest is clearly expressed in the rich diversity of forms, scales and styles of historic building evident in the town centre and representing the chronological development of this market centre from the Middle Ages onwards.

- 3.193 The earliest identified building is the Parish Church of St. Mary the Virgin (see above), which dates from at least the 12<sup>th</sup> century, even if much of the visible fabric relates to the development, alteration and subsequent restoration in the later Middle Ages and onwards into the middle and later years of the 19<sup>th</sup> century.
- 3.194 In tandem with the adjacent Thornbury Castle (also described above), which includes some remaining built fabric dating from the 14<sup>th</sup> century, but primarily represents the remains of the ‘fortress-palace’ started (but not ultimately finished) by the Third Duke of Buckingham in the early decades of the 16<sup>th</sup> century; the church’s position at the far north end of the town centre is taken to mark the position of the settlement’s original historic focus during the early phases of occupation.
- 3.195 The conservation area’s architectural interest is also visibly expressed in the compact and legible historic plan form, which is focused on the ‘Y-shaped’ arrangement of principal routes comprising High Street and ‘The Plain’ (St. John’s Street) in the south and Castle Street in the north that each converge on the large market place (**Plan AC 1**). On Page 5, Paragraph 3.3 of Phillpotts (2010) offers more detail on the origins and the significance of the town’s historic plan form and this is reproduced here as **Appendix AC 5**.
- 3.196 La Trobe-Bateman (1996, **Appendix AC 12**) also notes on Page 3 that ‘*The town in its present form was a new borough of the mid 13<sup>th</sup> century, founded by Richard de Clare, Earl of Gloucester, in 1252*’ and further adds thereafter on Page 13 that:
- ‘By the 16<sup>th</sup> century Leland’s account of the town implies that this street [Castle Street] had houses along it; he describes Thornbury as a ‘letter Y having first one longe street and two hornes goyne out of it’ which suggests that the High Street, Castle Street and John Street were the main thoroughfares through the town’.*
- 3.197 The central focus of this historic market town is typical in the way that the main streets feature tightly packed burgage plots arranged at ninety degrees to the frontages and with the long axes running back towards rear alleyways and stone boundary walls, within which the individual buildings (of two or three storeys) jostle for position and prominence in the surrounding streetscene.

- 3.198 The north end of the historic town centre is more spacious and less intense (**Plan AC 1**), with the course of Castle Street opening up towards the north and the sub-circular green defining the original settlement focus to the south of the parish church.
- 3.199 This is highlighted in the Council's Advice Note [**CD 6.5**] which states that *'The High Street provides the bustle of traditional historic market town with an interesting variety of street widths and enclosure – including the 'pinch point' created by the listed Bristol & West building. There is a wide range of historic buildings and styles – including a number of special features (the swan and white lion) – unified by pastel painted render finishes and white painted joinery. Castle Street to the north is quieter with the pastel coloured render giving way to natural stone buildings and walls. It leads via an interesting and twisting route to the hidden jewels of the Castle and Church – set in a tranquil woodland setting'*.
- 3.200 These aspects of the Thornbury Conservation Area are shown in **Images AC 33 to 35**, which depict the historic core of the town.
- 3.201 The conservation area also has historic interest, insofar as the available documentary and physical evidence points towards the origins of the town in the Anglo-Saxon period and its subsequent development through the Middle Ages.
- 3.202 La Trobe-Bateman (1996) takes this further when she observes on Page 4 that *'The choice of Thornbury as the principal seat of the Duke of Buckingham at the end of the 15<sup>th</sup> century must say something about the prosperity of the town; the construction of the castle in the first two decades of the 16<sup>th</sup> century certainly had an impact on the town, as did its subsequent abandonment. Rudder states that the town had been in a state of gradual decline since the 16<sup>th</sup> century...and Caffall concludes that it may have reached its peak in the 16<sup>th</sup> century...'* [**Appendix AC 12**].
- 3.203 The historic connections between the modern town and the Earls of Gloucester, in the early medieval period, and the Dukes of Buckingham during the later medieval and early post medieval period can both be experienced and appreciated in the existing arrangement of streets and spaces, as well as through the key buildings within the conservation area, thus highlighting this element of its significance.
- 3.204 Here, the church and castle are prominent buildings within the conservation area and particularly the historic town centre, where they represent and illustrate the two principal

social forces at play in the medieval period and where the scale and sophistication of the castle envisaged by the 3<sup>rd</sup> Earl of Buckingham in the early 16<sup>th</sup> century says a great deal about his wealth and ambition and no doubt likewise the adjacent town, which he chose as his seat when most of his power base was in South Wales (further to the west) and London represented the main focus of the Tudor Court.

3.205 The conservation area's archaeological interest is assessed as being derived from the potential for the buildings, spaces and thoroughfares to enhance our understanding of the town's origins and development from the Anglo-Saxon period through up to the present day and in the process to illustrate its changing morphology, function(s) and prosperity over the course of those 1,000+ years.

3.206 This archaeological interest is visibly expressed in the key historic buildings, such as the Parish Church of St. Mary the Virgin dating from the 12<sup>th</sup> century, but there is also likely to be important evidence concealed within the other more modest commercial and residential buildings fronting the main streets within the core of the historic town, whilst the spaces between and surrounding the principal historic buildings also have potential to preserve archaeological structures, features and deposits as sub-surface remains where suitable conditions exist; the scheduled monument at the castle of course being an area where the preservation of nationally important archaeology has been demonstrated.

3.207 The Thornbury Conservation Area is not assessed as possessing any particular artistic interest, although it is recognised that individual buildings (such as the church and castle) have been the focus of artistic depictions.

3.208 Page 3 of Advice Note 12 [**CD 6.5**] sets out the nine '*common important features which contribute to the distinctive character*' of the conservation area:

- Historic buildings;
- The historic layout and plan form of the settlement;
- Views and glimpses of landmarks;
- Stone boundary walls;

- Building materials;
- Archaeology;
- Water features;
- Trees; and
- Open spaces and vegetation.

3.209 Page 3 of the Council’s Advice Note 12 [CD 6.5] also sub-divides the conservation area into five ‘character areas’ with the appeal site considered to only have a relationship with the northernmost, which comprises ‘*Around Thornbury Castle and Church*’.

3.210 The text of Page 6 of Advice Note 3 provides a description of **Character Area 3: Around Thornbury Castle and Church**; i.e.:

*‘Whilst the visual importance of the Church Tower as a landmark is important, the historic Castle is the secret jewel to those exploring beyond the High Street. The enclosed twisting lanes and rubble stone walls of Castle Street give way to the pleasant informal open green spaces around the Church and Castle entrance. There are also important views and glimpses over the Levels and Severn Estuary from this area. The area is characterised by the large, mature specimen trees, the traditional church yard and the special castle walls, set within the open fields of the former deerpark.’*

3.211 Although the majority of the Thornbury Conservation Area’s significance is bound up in the buildings, spaces and roads, a minority portion is also drawn from the contribution which is made by its wider setting in the landscape and where this is identified on Page 2 of the Council’s Advice Note 12 [CD 6.5]:

*‘The surprisingly complete town boundary wall and the high stone walls to the narrow burgage plots provides an important unifying framework for the town. Beyond, or outside the town wall enclosing the houses and gardens, are the closes, or land required as paddocks, meadows, orchards and market gardens to enable the borough to operate*

*independently of the manor. These closes are therefore important both historically and for their contribution to the overall setting of the town.'*

3.212 In terms of the contribution made by the asset's setting, Page 1 of the Council's Advice Note 12 states that [**CD 6.5**]: *'On the main approach from the south there is an important vista overlooking the Severn Estuary to the west, with the church tower to the north'*.

3.213 In general terms, the wider setting of the conservation area to the east is dominated and characterised by the 20<sup>th</sup> century residential estates which define Thornbury's more recent residential growth, whereas the edges to the north, west and south continue to be defined and characterised by undeveloped spaces typically consisting of agricultural enclosures.

3.214 Hence, the general contribution made by the conservation area's setting to its significance as a heritage asset is in illustrating the relationship of this medieval and later market town to the agricultural base which supported its economy.

3.215 This relationship is still easily experienced and appreciated from the west side of the town centre, where a series of public footpaths and back alleys run outwards into the 'closes' identified in Advice Note 12 [**CD 6.5**] and then on to access the surrounding landscape of agricultural enclosures stretching out towards the River Severn beyond. This situation is illustrated in **Image AC 36**.

3.216 The same is similarly true of the south end of the conservation area, where there are long range views out from the end of High Street as it opens out beyond Rosemount House, although in that case the nature of the adjoining landscape is less obviously agricultural and more manicured (**Image AC 37**).

3.217 It should also be noted that the conservation area boundary **includes** the remaining undeveloped agricultural enclosures adjoining the west side of the historic town centre and representing not only the immediate setting of the historic settlement, but also the best preserved aspects of the adjoining agricultural landscape that formerly supported and underpinned the economy of this historic market town.

3.218 Likewise, the conservation area boundary to the north of the town [**CD 6.5**] takes in the immediate parkland setting beyond Thornbury Castle and Sheiling School, but here, unlike on the western side, it comprises private and largely inaccessible land where there are few

opportunities to experience or appreciate the inter-relationship between the historic market town and the surrounding agricultural landscape.

- 3.219 There are 'key' views identified in Advice Note 12 [**CD 6.5**] looking north from within the town centre, taking in the church and the castle viewed against a backdrop of wooded hills in the far distance. The screening effect of the buildings and the falling ground beyond the castle and church together combine to ensure that the appeal site does not form any part of this 'key' view northwards from within the core of the conservation area.
- 3.220 Not surprisingly, the Council's Advice Note 12 does not identify any 'key' views out to the north from the north end of the conservation area, where the appeal site is located. Indeed, the only such view identified in Advice Note 12 at the north end of the conservation area is orientated to the west along Park Road and focuses on the relationship between the Church and the small green positioned on its southern side.
- 3.221 One public footpath does run west and then north along the 'Pithay', beside the western wall of the castle, running north to Parkmill Farm and Oldbury Lane beyond. This route out of the conservation area does provide a good appreciation of the key historic buildings and town's historic and functional relationships with the wider agricultural landscape to the west and north, but once again this does not take in the land within the appeal site because of the screening effect of parkland trees and woodland blocks in the spaces north of the castle and is instead concentrated to the north west and the prominent and characteristic landmark of the parish church in Oldbury-on-Severn in the far distance (**Image AC 38**).
- 3.222 A second public footpath dog-legs through the south east corner of the enclosed parkland setting to Sheiling School, but it affords little in the way of an experience or appreciation of the conservation area's setting because much of the route traverses the playing fields laid out to the west of the Castle School and the land to the north is now in the process of being built out for the Park Farm residential development.
- 3.223 Likewise, the experience of Thornbury Conservation Area from the north and the enclosed agricultural farmland which makes up the appeal site is similarly limited over and beyond the relatively distant views of the tower of the Parish Church of St. Mary the Virgin and the battlements of the SW tower of Thornbury Castle intermittently from Oldbury Lane and the public footpaths running to the south, with Sheiling School and its grounds then becoming

a feature in views from the southernmost field within the appeal site and much closer in to the north end of the town (**Image AC 39**).

- 3.224 Overall, the experience of the conservation area looking in from the north is considered to be only limited and with little or nothing appreciated beyond the three listed buildings that are described already in the preceding paragraphs above. The overwhelming majority of this north-south orientated and relatively linear conservation area is concealed from view on the southwards approach by a combination of the natural topography and the woodland and tree cover in the grounds of Thornbury Castle and the adjacent Parish Church, which therefore means that the significance of the conservation area as defining a much more extensive historic town is only really revealed and appreciated much further on to the south.
- 3.225 Therefore, taken as a whole, the enclosed farmland within the appeal site is assessed as being an element of the Thornbury Conservation Area's setting which makes no more than a small contribution to its significance or the ability to appreciate that significance.

### **Step 3 of GPA3**

- 3.226 In light of the above, it is determined that the approval and implementation of the appeal proposals would cause some loss of Thornbury Conservation Area's heritage significance, even if the scale of loss would be no more than small.
- 3.227 This assessment is made on the basis that, whilst the southern boundary of the appeal site is 70 metres to the north of the northern edge of the conservation area, the southernmost elements of the built development would be separated by a distance of some 360 metres and would as a result be no closer to the conservation area than the adjoining elements of the Park Farm development.
- 3.228 There is limited interaction between the conservation area and the appeal site and there are also few opportunities to experience and appreciate the inter-relationship between the historic town and its surrounding agricultural landscape over and above distant glimpses of the castle and church located on the ridge.
- 3.229 However, at the same time, the implementation of the appeal proposals would nonetheless result in the loss or alteration of the limited views towards the conservation area which are available from the wider agricultural landscape to the north.



- 3.230 In that respect, it is clearly worth stating that Appendix C of the *Thornbury Neighbourhood Plan 2019-2036* (January 2022) illustrates 'Key Views and Panoramas'. In addition, a map shows the locations and directions of these Key Views and Panoramas.
- 3.231 It is noted that none of the nine 'Key Views and Panoramas' identified in Appendix C is from the northern end of the town and none of the nine focuses on the landscape adjoining or beyond the north end of Thornbury.
- 3.232 The nearest 'Key View or Panorama' to the appeal site is some distance to the east along Gloucester Road and identifies the view south from above Yew Tree Farm. In the main, the views focus inwards on to the town centre from the south, east and west or outwards from the western edge of the town centre over 'the closes' representing its immediate farmland setting in that location.
- 3.233 The loss or alteration of the 'limited' views available from and across the appeal site into the northern end of the Thornbury Conservation Area should of course then be assessed in a context whereby they are not identified within the currently draft Neighbourhood Plan as being of importance to the town.
- 3.234 Even so, it should be noted that, of the nine '*common important features which contribute to the distinctive character*' of the conservation area in Advice Note 12 [**CD 6.5**], only one, focused on '*views and glimpses of landmarks*' would be adversely affected by the approval and implementation of the appeal proposals.
- 3.235 This impact would arise from the loss of some distant views of the Church (in particular) from the farmland landscape north of the conservation area boundary and the alteration of others, with this principally being applicable to the inwards views from Oldbury Lane to the north and the Public Footpaths running south through and adjacent to the boundaries of the appeal site.
- 3.236 However, of course, the vast majority of the land within the appeal site boundary comprises agricultural farmland without formal access to the general public away from the footpaths in the east and in the south. Therefore, the creation of new access and new views towards the conservation area and the historic buildings that it contains would afford some amount of compensation for those that would be lost or altered.

3.237 Hence, for the most part there would be no particular impact on either the appreciation or the enjoyment of Thornbury Conservation Area as a heritage asset.

**Step 4 of GPA3**

3.238 There are no additional measures, over and above those identified above as forming part of the appeal proposals, which can be employed to either mitigate or compensate for the small adverse impact that the development would generate.

## Section 4

### Policy Review and Conclusions

- 4.1 My Proof of Evidence (PoE) responds to and then addresses Reason for Refusal (RfR) 1 of the Council's Statement of Case (issued on 28 January 2022). This states the following:

*'The proposed development would cause less than substantial harm at the lower end of the spectrum to the setting of the Grade I listed Thornbury Castle and St. Mary's Church and the Grade II listed Sheiling School and Thornbury Conservation Area. Great weight is required to be attached to this harm and applying PSP17 and paragraph 202 of the NPPF it is not considered that the public benefits of the proposal outweigh that harm.'*

- 4.2 Paragraph 4.4 then expands on the RfR and sets out the Council's Case insofar as heritage matters are concerned:

*'The natural and historic environment is a finite and irreplaceable resource, and the protection of heritage assets is a priority nationally, as well as one for the Council. The Council will show that the appeal proposal will result in less than substantial harm to the setting and significance of the Grade I listed Thornbury Castle and St Mary's Church and the Grade II Listed Sheiling School and the Thornbury Conservation Area and the public benefits do not outweigh that harm so that there is a clear reason that permission should be refused under both paragraph 11 d(i) of the NPPF and PSP17 of the Development Plan.'*

- 4.3 The focus of the Council's case on heritage matters is then set out in Paragraph 5.87 of its Committee Report when it identifies the following assessment:

*'However, overall, the Conservation Officer's advice is that the urban design approach, whilst it will enable views of the [church] tower from within the development itself and so promote character/local distinctiveness it would not overcome or mitigate for the loss of views of St. Mary's Church Tower from Oldbury Lane. He is also of the view that by the inherent nature of the scheme the development will result in change in landscape character and would further erode the character of the historic deer park which makes a*

*positive and material contribution to the setting of the Thornbury Castle building group. He considers that for similar reasons there would be harm to the other assets as well.'*

4.4 Hence, it appears to be the Council's case that, insofar as heritage matters are concerned, it accepts that the impacts of the appeal proposals on heritage assets have been minimised as far as possible through consultation and design changes in the course of the planning application process, but even so there would (a) still be harm caused to four heritage assets via changes within their wider setting, (b) this would constitute *less than substantial harm* at the 'lower' end of that broad spectrum of impact and (c) the balance of heritage harm against public benefits is now struck **against** the approval of the application, in contrast to the position as recently as last summer when the then Case Officer apparently determined that the outline application was '*fully policy compliant*' in a Briefing Note prepared to inform members of the Planning Committee.

4.5 Notwithstanding the fact that the Council already had three consultation responses on file from its in-house Conservation Officer (Rob Nicholson) that started with an identification of harm to the four heritage assets as '*limited or lower end of less than substantial harm*' and then progressed to '*reduced further but still less than substantial harm*' as a result of that process of post-submission consultation and design changes; a second opinion was sought and obtained from Tim Murphy at Place Services in winter 2021 and concluded with advice to the effect that the implementation of the appeal proposals would cause no harm to any of the assets assessed and highlighted that:

*'...there is no objection to this proposal which is not considered to harm the significance of any of the designated heritage assets'.*

4.6 Whilst the Case Officer dismisses this advice in their report to the Planning Committee on the premise that it represents an 'outlier', this is clearly not the case when it is put into its context and considered alongside the assessment of Mr Ben Stephenson, who drafted the reports that accompanied the planning application and the responses that were submitted by the Council's in-house Conservation Officer and Historic England, where so far not one of them has identified an impact to designated heritage assets that is of greater magnitude than at the '*lower end of less than substantial harm*' in terms of the Framework.

4.7 I was not involved in preparing any of the application documents on heritage matters and was only initially engaged by the appellant in summer 2021 to review those documents and

the subsequent responses from the consultees, in order to provide a second opinion on the likely nature and scale of impacts from the proposals on the four designated assets which had to that point been highlighted as being affected by them.

- 4.8 Having undertaken background research and visited the four heritage assets, the appeal site and its wider surroundings on a number of occasions since accepting an instruction for the project in the autumn; my professional opinion is that the implementation of the appeal proposals would give rise to the following impacts (**Table AC 3**):

**Table AC 3:** Updated Summary of Heritage Impacts

Asset Ref	BS	HE 06.19	TM 12.21	RN 01.22	AC 02.22
Thornbury Castle	Neutral	LTSH	No harm	Lower end LTSH	Small Lowest end LTSH
Church of St. Mary the Virgin	Neutral		No harm		Small Lowest end LTSH
Sheiling School	Neutral	N/A	No harm		No Impact (Neutral)
Thornbury Conservation Area	Neutral	N/A	-		Small Lowest end LTSH

**LTSH:** Less Than Substantial Harm (Paragraph 202 of the NPPF)

**BS:** Ben Stephenson (BSA Heritage)

**HE:** Historic England

**TM:** Tim Murphy (Place Services)

**RN:** Rob Nicholson (Council Conservation Officer)

**AC:** Andrew Crutchley (EDP)

- 4.9 With regard to **Table AC 3** (above), it might reasonably be concluded that there is a narrow breadth of opinion and a strong degree of commonality in respect of the assessments that these five experts have made of the appeal proposals' impact on the heritage assets.
- 4.10 Whilst it is recognised and accepted that the appeal proposals would give rise to 'harm' in respect of three out of the four designated assets identified by the Council as being affected and cited in RfR 1 of its Statement of Case, it is still of course correct to conclude that the acceptability of those effects and that harm is a matter for the decision-maker to decide upon and nothing in legislation, case law or planning policy (either nationally or locally) proscribes the outline application's approval, as the Council's previous assessment that it was '*fully policy compliant*' only last summer clearly serves to underline.
- 4.11 As far as relevant legislation and case law is concerned (**Appendix AC 1**) even the '*strong presumption against*' the grant of planning permission in the Forge Field judgement is still

accepted in the same judgement as not being an *'irrebuttable'* presumption and one where factors of sufficient weight to do so can outweigh it. In a similar way, the Barnwell Manor judgement requires a decision maker to apply *'considerable importance and weight'* to the desirability of preserving a listed building and its setting, but it again still does not preclude development that would cause harm. It is true to say that the *strong presumption* may tilt the balance against the approval of harmful proposals, but it still remains a matter for the decision maker to weigh and then determine.

- 4.12 Paragraph 199 of the NPPF (July 2021) identifies that *'great weight'* should be given to the desirability of conserving designated assets and qualifying that the weight afforded should be proportionate to the significance of the asset or assets. The following paragraph (200) of the Framework adds that *'clear and convincing justification'* is required where harm would be caused to a designated heritage asset.
- 4.13 Paragraph 199 of the NPPF also sets out a principle of *'proportionality'* where the weight to be afforded to the conservation of designated heritage assets increases as the significance of the assets also increases.
- 4.14 Even so, it ultimately remains the case that Paragraph 202 of the NPPF (July 2021) advises the decision maker to weigh the *less than substantial harm* against the public benefits that the appeal proposals would deliver, mindful of the *'special regard'* duty set out in s66(1) of the 1990 Act. Hence, in and of itself the finding of *less than substantial* harm to three of the four designated heritage assets does not necessarily proscribe or preclude the grant of planning permission.
- 4.15 It is for my colleague, Mr. Matthews (covering planning matters on behalf of the appellant) to undertake the balancing exercise detailed in Paragraph 202 of the NPPF and PSP 17 of the South Gloucestershire *Policies Sites and Places Plan (2017)*, although neither of these two policies countenances against the grant of planning permission in this case so long as the benefits of doing so are of sufficient weight.
- 4.16 In that sense, PSP 17 follows the approach set out in the Framework, whereby the Council states that it will only grant planning permission where all of the four following tests can be met by the proposals:
- *the proposal results in public benefits that outweigh the harm to the heritage asset,*

*considering the balance between the significance of the asset affected, the degree of harm and the public benefits achieved;*

- *there is no other means of delivering similar public benefits through development of an alternative site;*
- *the harm to the heritage asset is minimised and mitigated through the form and design of the development and the provision of heritage enhancements; and*
- *the heritage asset will be properly recorded to professionally accepted standards’.*

4.17 Of course, it should be highlighted that PSP 17 was adopted by the Council in 2017 and it would have represented the adopted Local Plan policy against which the appeal proposals were assessed last summer (2021), where the Officer at the time is reported in the Report to the Strategic Sites Delivery Committee (20 January 2022) [**CD 5.11**] to have reached the view that the development was ‘*fully policy compliant*’ in spite of the Conservation Officer’s identification of less than substantial harm to **four** designated assets.

4.18 Finally, it is possible that the Neighbourhood Plan will be ‘made’ ahead of the opening of the Public Inquiry on 29 March and so therefore appropriate consideration has been given to Policy 11 of that Plan which sets out that:

*‘Any new development or improvements proposed in the town centre should be undertaken with a view to conserving and enhancing the historic market town character and identity of Thornbury.*

*Within the Conservation Area, development should respect the provisions of the 2004 Thornbury Conservation Area Advice Note, produced by South Gloucestershire Council, the following elements of which are especially pertinent:*

- *Respect for the style and form of the town centre buildings and streetscape, enhancing the character and appearance of the historic market town;*
- *The use of materials which are sustainable and fit for purpose, but which blend with the existing colours and styles;*

- *A consistent and appropriate style of street furniture including benches, lighting, signage and bins; and*
- *Maintain the views over the lowland levels and Severn Estuary and the open aspects to the west and north with the old town walls set within open space and the open spaces identified within the town development boundary.'*

4.19 Once again, this Neighbourhood Plan policy does not in any way count against the approval of the proposals forming the basis of this appeal because the focus is firmly placed on the town centre and development within the conservation area. It is clearly true to say that the appeal site does not impact upon the town centre because it is not located within the town centre. Likewise, the appeal site is not located within the boundary of the conservation area and would only impact upon the conservation area insofar as its setting is concerned. This Neighbourhood Plan policy does not extend to address development positioned outwith the conservation area and where its setting only would be affected. It is therefore assumed that the evaluation and determination if the appeal proposals would in this respect be on the basis of the relevant paragraphs of the NPPF and Policy PSP17 of the Local Plan.

4.20 Therefore, I conclude that there is no reason, in terms of heritage matters, why the appeal proposals should not be treated favourably and approved.





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