

**LAND WEST OF PARK FARM,  
OLDBURY LANE, THORNBURY**

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**AGRICULTURAL CONSIDERATIONS  
(putative Reason for Refusal No 2)**

**by**

**Tony Kernon BSc(Hons), MRICS, FBIAC**

**APP/P0119/W/21/3288019**

**February 2022**





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# 1 INTRODUCTION

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- 1.1 Application PT18/6450/O has been appealed on the basis of non-determination.
- 1.2 As set out in the Council's Statement of Case (February 2022), the Strategic Sites Delivery Committee resolved on 20<sup>th</sup> January 2022, following the lodging of the appeal, that they would have refused the application on four grounds.
- 1.3 This Statement addresses part of putative Reason for Refusal 2. This states, in full, as follows:
- "2. 14.4ha, 40% of the site is grade 2 and 10.3ha, 29% is grade 3A agricultural land. The proposed development would develop most of this land. The development of this amount of high quality agricultural land is considered to be significant. Policy CS9 seeks to avoid the development of best and most versatile land and paragraph 174 of the NPPF seeks to protect soils in a manner commensurate with their quality. Paragraph 175 seeks to allocate land for development with the least environmental value and requires that where significant development of agricultural land is necessary poorer quality land should be preferred to higher quality land. In light of the Council having a five-year supply it is not considered that the development of this land is necessary and, in any event, it is not of lower quality land. The proposal is therefore contrary to policy CS9 and paragraphs 174 and 175 of the NPPF".**
- 1.4 This Statement does not address the issue of the five-year housing land supply. This Statement addresses the agricultural land quality and related policy issues in the event that development of agricultural land is considered to be necessary.
- 1.5 This Statement is structured as follows:
- (i) section 2 summarises the key planning policy of relevance;
  - (ii) section 3 sets out a description of the agricultural land quality and farming circumstances;
  - (iii) section 4 sets out the implications in terms of agricultural land quality affected and the related economic considerations;
  - (iv) section 5 considers the wider context in terms of agricultural land quality in the wider context of land around Thornbury and wider afield, to review whether poorer quality land is available;
  - (v) with section 6 reviewing the Council's decisions locally and in emerging allocations to review their approach to the use of the best and most versatile agricultural land;

- (vi) section 7 then assesses Reason for Refusal no 2 in the context of the above;
- (vii) and the Statement ends with conclusions in section 8.

### **The Author and RICS Declaration**

- 1.6 This Statement is produced as an attachment to the Planning Proof of Evidence of Nicholas Matthews of Savills. It has been prepared by Tony Kernon. I am a Chartered Surveyor and a Fellow of the British Institute of Agricultural Consultants (and currently its Chairman). I have thirty five years' experience of assessing the effects of development proposals on agricultural land and businesses. My Curriculum Vitae is reproduced in **Appendix KCC1**.
  
- 1.7 Whilst this is written evidence, it is nevertheless put forward as expert opinion. As a Chartered Surveyor giving expert opinion I am bound by the RICS Practice Statement "Surveyors Acting as Expert Witnesses, 4<sup>th</sup> Edition" (2014). My evidence must be full and unbiased. In accordance with the Practice Statement a declaration to this effect is given at the end of this Statement.

## 2 RELEVANT PLANNING POLICY CONTEXT

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### National Planning Policy

- 2.1 The National Planning Policy Framework (NPPF) was revised in July 2021. Paragraph 174 notes that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising **“the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land”**.
- 2.2 The best and most versatile (BMV) agricultural land is defined in Annex 2 of the NPPF as that in grades 1, 2 and 3a of the Agricultural Land Classification.
- 2.3 Paragraph 175 deals with plan making. It requires plans to, inter alia, allocate land with the least environmental or amenity value, where consistent with other policies in the Framework. Footnote 58 of the NPPF identifies that **“where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality”**.
- 2.4 There is no definition of what constitutes “significant” development. However the “Guide to assessing development proposals on agricultural land” (Natural England, February 2021) advises local planning authorities to **“take account of smaller losses (under 20 hectares) if they’re significant when making your decision”**, suggesting that 20 ha is a suitable threshold for defining “significant” in many cases.

### The Development Plan

- 2.5 The South Gloucestershire Local Plan Core Strategy 2006 – 2027 was adopted in 2013. Putative Reason for Refusal No 2 refers to only one policy, CS9. Policy CS9 states, inter alia:
- “The natural and historic environment is a finite and irreplaceable resource. In order to protect and manage South Gloucestershire’s environment and its resources in a sustainable way, new development will be expected to:**
- 9. maximise opportunities for local food cultivation by (a) avoiding the best and most versatile agricultural land and; (b) safeguarding allotment sites”**.
- 2.6 Relevant explanatory text is set out at 8.15. It is noted that the best and most versatile agricultural land should be protected in recognition of the increasing need to produce food locally due to climate change.

2.7 Policy CS34 is referred to in the Council's Statement of Case as a relevant policy and states as follows:

**“Development plan documents and development proposals will take account of the vision for the rural areas and partnership priorities, accord with Neighbourhood Plan initiatives and will (inter alia):**

- 2. protect the best and most versatile agricultural land and opportunities for local food production and cultivation to provide for nearby urban areas and settlements”.**

2.8 The explanatory text at 16.8 states as follows:

**“The best and most versatile agricultural land will be protected from unacceptable development. This is particularly important in view of the increasing need to produce food locally due to the anticipated impact of climate change. Lower grade land may also be valuable for the cultivation of non food crops, including biomass”.**

### 3 THE SITE AND ITS AGRICULTURAL CIRCUMSTANCES

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#### The Site

- 3.1 The site extends to 36 ha of mostly agricultural land. It lies to the immediate northwest of Park Farm, which is under construction.
- 3.2 The site is described by others, but is shown edged red on the following Google Earth aerial image (stated date 7<sup>th</sup> July 2021).

*Insert 1: The Site Edged Red (approx.)*



- 3.3 As can be seen, the site is mostly agricultural land and mostly in grassland uses.

#### Agricultural Land Quality

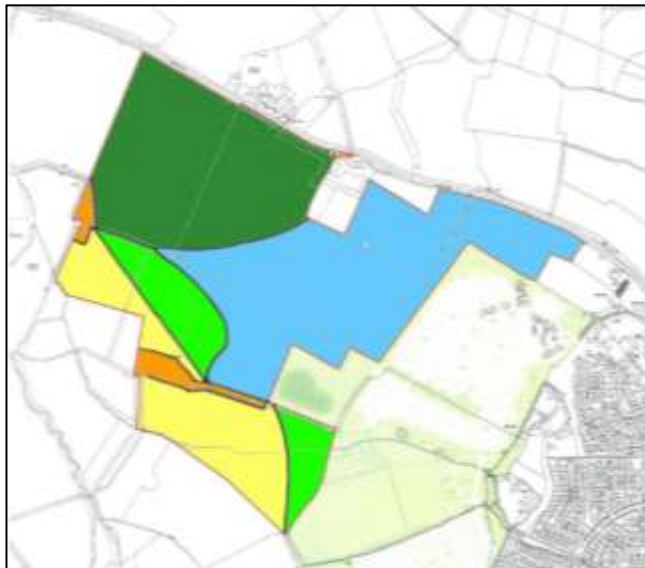
- 3.4 As described later in this Statement, there is extensive Agricultural Land Classification (ALC) survey information available around the north and east of Thornbury, but none was available for this site.
- 3.5 The ALC system is a methodology for assessing the quality of land to enable informed choices to be made about its future use within the planning system. The ALC system classifies land into five grades, with Grade 3 divided into two subgrades, based on the long-term physical limitations of land for agricultural use.
- 3.6 As set out in section 2, land in Grades 1, 2 and 3a is collectively defined as “**best and most versatile**” agricultural land. As explained in Natural England’s Technical Information Note



049 (version 2, 2012), reproduced in **Appendix KCC2**, across England an estimated 42% of farmland is predicted to comprise BMV land.

3.7 As there had been no previous ALC survey carried out for the site, we carried out a detailed ALC in May 2018, as reported with the application. The results, in the form of extracts from Plan KCC2 attached to the ALC, are as follows.

*Insert 2: Extracts from the ALC Results*



KEY		Ha	%
<span style="background-color: #000080; color: white;"> </span>	Grade 1		
<span style="background-color: #00BFFF; color: white;"> </span>	Grade 2	14.4	40
<span style="background-color: #008000; color: white;"> </span>	Grade 3a	10.3	29
<span style="background-color: #90EE90; color: white;"> </span>	Grade 3b	3	8
<span style="background-color: #FFFF00; color: white;"> </span>	Grade 4	7.1	20
<span style="background-color: #8B4513; color: white;"> </span>	Grade 5		
<span style="background-color: #FF8C00; color: white;"> </span>	Woodland	1	3
<span style="background-color: #FF0000; color: white;"> </span>	Urban		
<span style="background-color: #A9A9A9; color: white;"> </span>	Not surveyed		

3.8 Large areas of the site are shown on the draft Masterplan as being open space and biodiversity enhancement areas. However the non-agricultural irreversible development is proposed for the northern part of the site and would result in the permanent loss of 14.4 ha of Grade 2 and 10.3 ha of Subgrade 3a land.

**Farming Circumstances**

3.9 The land is let on an annual arrangement to a local farming business. The land is subject to a surrender agreement in respect of the Application Site, and accordingly the land does not form a secure, long-term part of any farming business.

## 4 AGRICULTURAL CONSIDERATIONS OF THE SITE

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- 4.1 This section considers:
- the loss of agricultural land;
  - the economic and other considerations.

### **Loss of Land**

- 4.2 National planning policy does not place a bar on the development of the best and most versatile quality agricultural land. Paragraph 174 of the NPPF requires that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the wider benefits from natural capital **“including the economic and other benefits of the best and most versatile agricultural land”**.
- 4.3 As advised in the NPPF paragraph 3, the NPPF should be read as a whole, including its footnotes and annexes.
- 4.4 The development will result in the loss, in agricultural terms, of 24.7 ha of BMV agricultural land and 10.1 ha of poorer quality agricultural land, as set out in the ALC report (May 2018).
- 4.5 The draft Masterplan, an extract of which is shown below, shows that there are parts of the site that will be kept open. Therefore there is opportunity to conserve the soil resource across the site, by good working methodology, although this is mostly non-BMV land.

*Insert 3: Extract from Draft Masterplan*



4.6 Consequently I conclude that in practical terms the proposed development results in the loss of 24.7 ha of BMV agricultural land.

### **Economic Implications**

4.7 The NPPF paragraph 174 requires planning decisions to recognise the economic and other benefits of the best and most versatile agricultural land. There is no research that we are aware of that seeks to analyse the productive or economic advantages of BMV to non-BMV land. In the absence of any empirical data, any economic assessment is inevitably crude. Taking standard budgeting textbooks, such as the John Nix Farm Management Pocketbook (extracts from which are reproduced in **Appendix KCC3**), it is possible to show the difference between moderate and high yields, as an illustration, between say a wheat crop and a grazing livestock use.

4.8 Taking that crude measure for winter wheat and a grazing livestock use, the differences are shown below.

*Table 1: Assessment of Economics of Farmed Land*

Item	Winter Wheat		Single – Suckle autumn calving suckler cows	
	Average	High	Average	High
Yield	8.6t/ha	9.75t/ha	1.5 cows/ha	1.5 cows/ha
Gross Margin / £/ha	£833	£1017	£226	£296
Fixed costs <sup>1</sup> £/ha	£745	£745	£660	£660
Profit (loss) /ha before labour	£88	£272	(£321)	(216)
Unpaid labour £/ha	£170	£170	£360	£360
Profit (loss) after unpaid labour	(£82)	£102	(£681)	(£576)
Uplift £/ha	--	£184	-	£105

Source: John Nix Pocketbook for Farm Management, 2022 (52<sup>nd</sup> Edition)

<sup>1</sup>Mainly cereals, under 200 ha, excluding unpaid labour

<sup>2</sup> Mainly sheep / cattle (lowland) farms 90-125 ha, including unpaid labour

4.9 For the 24.7 ha of BMV land involved in this case, which is currently mostly grassland, the above analysis indicates that the economic benefits of BMV land are of the order of £2,600 per annum (24.7 ha x £105). For an arable use the benefit would be of the order of £4,500 per annum (24.7 x £184).

4.10 The Core Strategy, via policies CS9 and CS34, seeks to protect BMV agricultural land. The reason is to protect the opportunities for local food production. Taking the single suckler and wheat enterprises, as set out above, the budgets are based on per hectare increases in production as follows:

- (i) winter wheat 1.15t/ha;
- (ii) suckler-cow bred store calves 29kg per head heavier x 1.5 head per hectare equals 43.5kg/ha per annum.

4.11 For the 24.7 ha therefore the extra production over non-BMV land, crudely, would be 28 tonnes of wheat (one HGV load) or 1,075kg of extra animal weight (this is the live weight not the carcass or meat weight).

### **Conclusions**

4.12 Therefore the effect of the proposed development is:

- the loss of 24.7 ha of BMV agricultural land;
- land which has a crudely-estimated economic benefit of the order of £2,600 - £4,500 per annum;
- and a food production benefit also crudely estimated at up to about 28 tonnes of cereals or 1,000 – 1,100kg of live-weight beef animal production per annum.

## 5 LAND QUALITY IN THE THORNBURY AND WIDER AREA

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5.1 In this section I review:

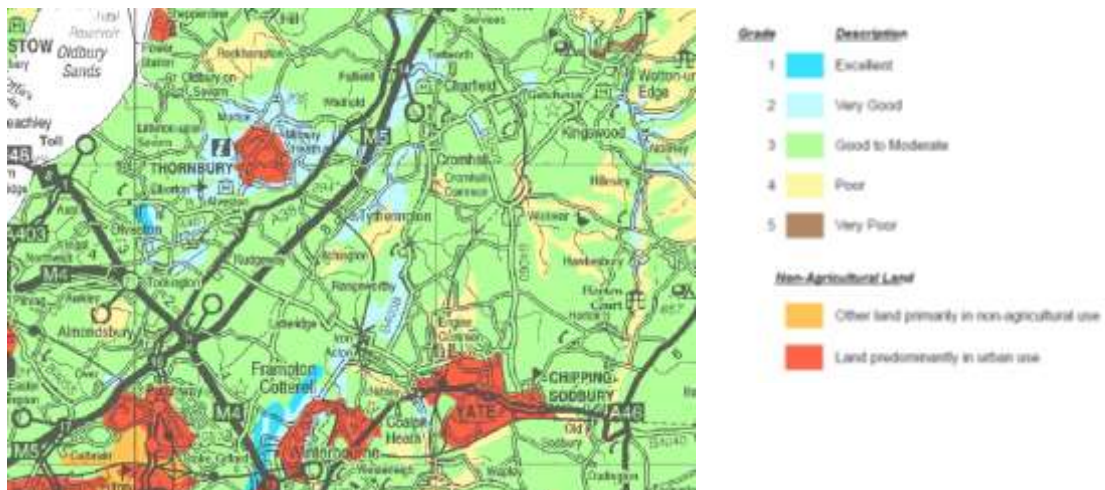
- (i) the wider national and district figures to estimate BMV distribution;
- (ii) published predictive BMV distribution maps;
- (iii) known ALC data around Thornbury.

### Wider Statistics

5.2 As noted, Natural England's TIN049 (**Appendix KCC2**) estimates that about 42% of England is of BMV quality. It is not, therefore, a rare resource.

5.3 In the 1970s MAFF produced "provisional" ALC maps. These were produced before the ALC methodology was revised and, as advised in TIN049, must be used only cautiously. These maps showed the South Gloucestershire District as mostly undifferentiated Grade 3, but with Thornbury mostly surrounded by Grade 2, as shown below.

*Insert 4: "Provisional" ALC*



5.4 Those maps are not to be relied upon, not least because the ALC methodology has changed twice since the maps were produced. Those maps showed the distribution and areas of land within South Gloucestershire, as shown below. Based on the estimate of 42% of England being of BMV quality (see **Appendix KCC 2**), 41% of Grade 3 nationally is expected to be sub-grade 3a. Using that assumption, the figures and areas for South Gloucestershire (but based on the 1970's provisional maps) are as follows:

Table 2 : Area by Grade

Grade	Description	Ha	%
1	Excellent	311	0.72
2	Very Good	3,030	6.8
3a	Good	15,315	34.6
3b	Moderate	22,040	49.7
4	Poor	3,607	8.1
5	Very Poor	35	0.1

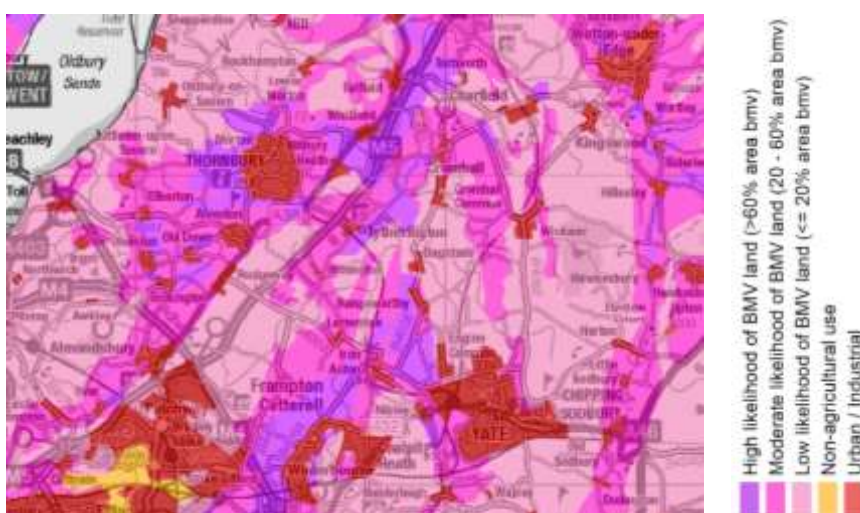
### **Predictive BMV Maps**

5.5 In 2017 Natural England produced maps which divide the land into three categories according to the proportion of land expected to be of BMV quality:

- low (<20% area bmv);
- moderate (20 – 60% area bmv);
- high (>60% area bmv).

5.6 An extract from the southwest map, with the key, is reproduced below.

*Insert 5: Predictive BMV Map*



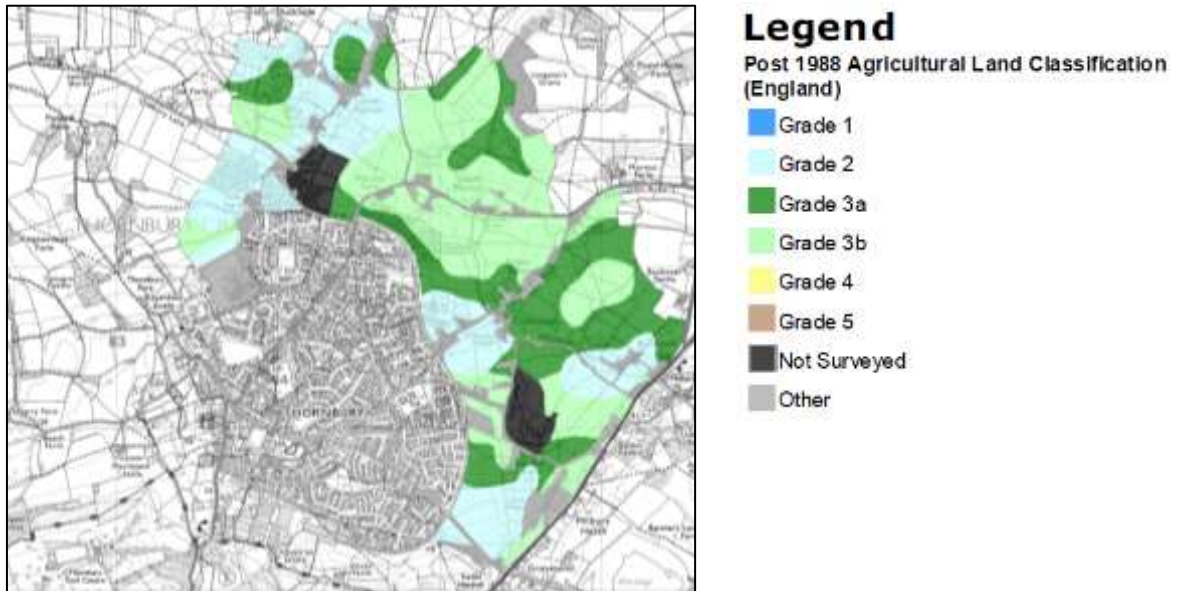
5.7 These maps show that there are large areas across the District where less than 20% of land is predicted to be of BMV quality. However, if development is expected to be centred on the main settlements, as seems likely and logical, then it can be seen that these are mostly in the areas of moderate or high proportions of BMV. This is not surprising, as many settlements were originally farming villages that grew, and they would have been based where the land was the best.



### Available Data Around Thornbury

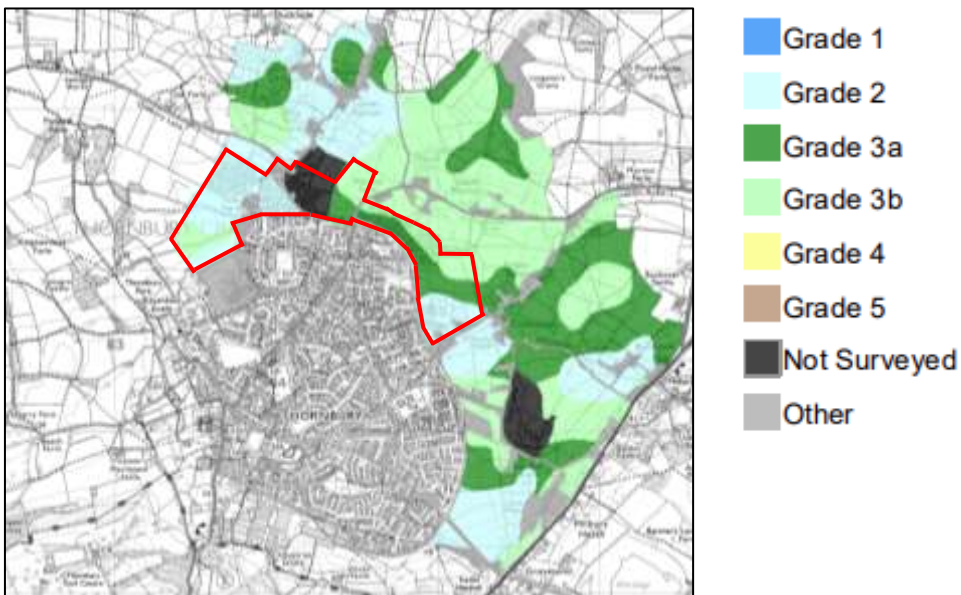
- 5.8 Around Thornbury there is a considerable amount of ALC data available. Where survey data is available it is published on the Government's website [www.magic.gov.uk](http://www.magic.gov.uk). The map for Thornbury is reproduced in **Appendix KCC4**. An extract is reproduced below.

*Insert 6: Available ALC Data Thornbury*



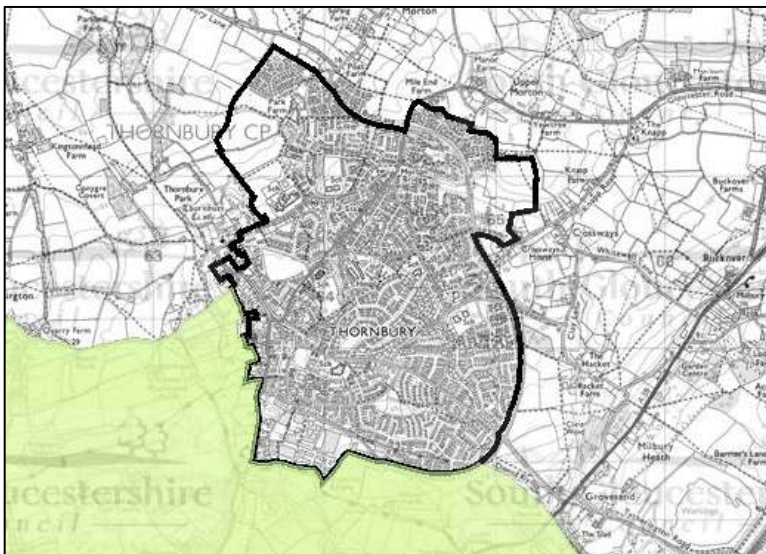
- 5.9 These surveys show that along what was (at the time of survey) the urban periphery of Thornbury, most land immediately adjoining is of BMV quality, with Subgrade 3b further afield to the northwest.
- 5.10 Because of the passage of time, that map is now misleading, however. I have reduced the intensity of the map colours to show underlying development, but show with a red line below the areas now under development or already developed around Thornbury.

*Insert 7: Areas Now Being/Been Developed*



5.11 There is no available survey data for land to the west and southwest. However the Green Belt covers much of this land, as shown below.

*Insert 8: Green Belt Boundary (from the Interactive Policies Map)*



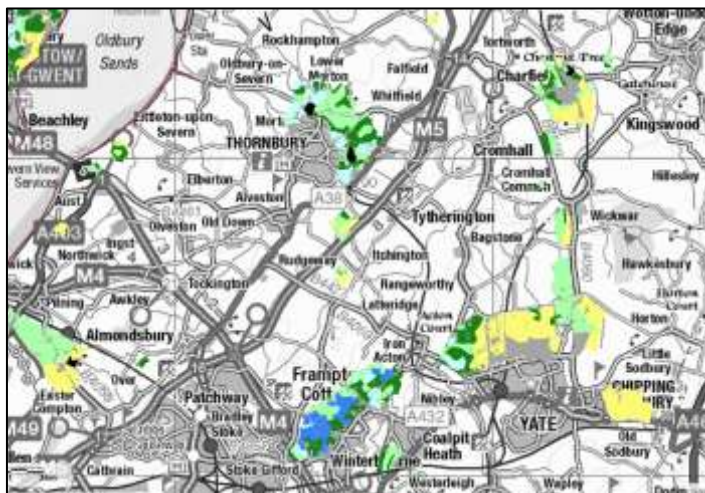
**The Wider Area**

5.12 The predictive BMV maps were shown earlier.

5.13 Available ALC survey data is reproduced below. This covers a similar area to the “provisional” and “predictive” maps.



Insert 9: Available ALC Wider Area



### Legend

Post 1988 Agricultural Land Classification (England)

- Grade 1
- Grade 2
- Grade 3a
- Grade 3b
- Grade 4
- Grade 5
- Not Surveyed
- Other

## 6 ALLOCATIONS AND DECISIONS

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- 6.1 The putative Reason for Refusal No 2 states that the development of this amount of high quality land is considered to be significant, and refers to the NPPF paragraphs 174 and 175.
- 6.2 The Reason for Refusal draws reference from footnote 58 of the NPPF, which is footnoted to paragraph 175. Paragraph 175 is directed at plan making, as it states “**Plans should ...**”.
- 6.3 In this section I consider:
- (i) the Core Strategy allocations for Thornbury;
  - (ii) the Joint Spatial Plan allocations for Thornbury;
  - (iii) and then review recent decisions around Thornbury.

### **Core Strategy (2013)**

- 6.4 The Core Strategy allocations for Thornbury involved land to the north-east, and land to the northwest. The relevant extract from the Core Strategy is in **Appendix KCC 5**.
- 6.5 In terms of the area involved, the following plan shows the allocations on the ALC Map.  
*Insert 10: Core Strategy Allocation Marked on ALC Plan*



- 6.6 Clearly the Council recognised at that time that BMV land needed to be developed to meet the expansion needs of the settlement.

### **Emerging West of England Joint Spatial Strategy**

- 6.7 In the Joint Spatial Strategy (2017) the site identified for growth is similar to one of those in the Core Strategy, and is shown below (with more detail in **Appendix KCC 6**).

*Insert 11: JSP Allocation Marked on ALC Plan*



- 6.8 “Appendix D: Appraisal tables” to the JSP identifies sustainability objective 4e as to “**minimise the loss of productive land, especially best and most versatile agricultural land**”. Against these considerations, the following comments are made in the Templates for the Thornbury site.

*Table 3: Comments from the JSP Appraisal Tables*

Site	Comment
Thornbury	There are large areas of potential Grade 2 agricultural land surrounding parts of Thornbury. The majority of the SDL area is potential Grade 2 agricultural land, with a small area of potential Grade 3 land at the southernmost extent of the residential area to the east of Thornbury. The vast majority of the SDL area is outside of Flood Zone 3.

- 6.9 In all cases it is noted that detailed ALC is required and that the site definition “**should avoid identified areas of BMV agricultural land**”.

**Development Around Thornbury**

- 6.10 In the Environmental Statement a table was produced showing the cumulative loss of BMV land around Thornbury. This is reproduced below and shows the loss of BMV land in other decisions.

Table 4: Table 14.6 of the ES

Site	Application Ref	Baseline	Cumulative Effect with The Proposed Development
Land at Park Farm, Thornbury	PT11/1442/O	Comprises of 12 hectares of Grade 2 land, 8.7 hectares of Grade 3a and 4.8 hectares of Grade 3b. Accordingly 20.7 of BMV agricultural land has been lost.	Moderate
Land at Morton Way, Thornbury	PT/12/2395/O	Comprises of 4.4 hectares of Grade 2 land, 11 hectares of Grade 3a and 6.6 hectares of Grade 3b. Accordingly 15.4 of BMV agricultural land has been lost.	Moderate
Land at Post Farm, Thornbury	PT15/2917/O	Comprises of 5.6 hectares of Grade 3a (BMV) agricultural land	Moderate
Land West of Gloucester Road, Thornbury	PT16/4774/O	Comprises of 4 hectares of Grade 3a and 4 hectares of Grade 3b. Accordingly 4 hectares of BMV agricultural land will be lost	Moderate
Land at junction of Morton Way and Grovesend Road, Thornbury	PT/16/3565/O	Estimated that the Site comprises of 7.2 hectares of Grade 2, 7.2 hectares of Grade 3a and 7.2 hectares of Grade 3b. Accordingly 14.4 hectares of BMV agricultural land will be lost	Moderate
Land west of Pound Mill Business Centre, Lower Morton, Thornbury	PT13/3101/F	Comprises of approximately 4.5 hectares of agricultural land of which 4 hectares is Grade 2 and 0.5 hectares Grade 3a i.e. all land is BMV	Moderate

6.11 This identifies that the loss of BMV land has been considered acceptable.

6.12 In the context of the land quality around Thornbury, examined earlier, the non-agricultural development of BMV land has been inevitable.

## 7 ASSESSMENT OF REASON FOR REFUSAL NO 2

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### The Reason

- 7.1 Putative Reason for Refusal No 2 sets out the areas of Grade 2 and Subgrade 3a that will be lost to the development. It then sets out the following points/statements:
- the development of this amount of high quality land is considered to be significant;
  - CS9 seeks to avoid the development of BMV agricultural land;
  - NPPF paragraph 175 requires that where significant development of agricultural land is considered to be necessary, poorer quality land should be preferred;
  - in light of a five year supply development is not necessary and, in any event, is not of lower quality.

### Analysis

- 7.2 Footnote 58 to the NPPF, set in the context of plan making, seeks to steer significant development of agricultural land to land of a poorer quality.
- 7.3 There is no definition of what constitutes “significant” development of agricultural land. From analysis of appeal decision and Secretary of State decisions, it is generally considered that developments in excess of 20 ha of BMV would be “significant” in the context of the NPPF.
- 7.4 In the ES the loss of 24.7 ha of BMV was considered to be a moderate adverse environmental impact and significant in ES terms.
- 7.5 In my opinion the development involves the “significant” development of agricultural land.
- 7.6 That does not, however, mean that non-agricultural development cannot occur. The protection afforded to BMV agricultural land is far from absolute. Paragraph 174 (planning policies and decisions) requires only the economic and other benefits to be “recognised”. Paragraph 175 (plan making) sets out that poorer quality land should be preferred. Both are in the context of the NPPF having to be considered as a whole.
- 7.7 It is clear that the economic benefits are limited. We estimate an annual benefit of £2,600 from the grassland uses, which could rise with arable reversion, to about £4,500 compared to poorer quality land.

- 7.8 In the context of CS9 (and allied CS34), which places emphasis on food production, the benefits are also modest, circa 28 tonnes of cereals (were this to be converted to arable land) or about a tonne of extra carcass weight of beef animals.
- 7.9 It is clear that in the context of Thornbury, if the Green Belt is avoided then the options for avoiding the use of BMV agricultural land are fairly limited. The area around the settlement is mostly expected to involve moderate or high proportions of BMV land and the widespread availability of ALC survey results confirms this.
- 7.10 That BMV land around Thornbury needs to be developed, where development is considered to be necessary, is clearly demonstrated by the recent decisions around the town.
- 7.11 In plan making, which is what the NPPF footnote 58 is directed towards, the use of BMV land is also inevitable. The Core Strategy allocations for Thornbury involves BMV land. The JSP draft allocation also involves BMV land.
- 7.12 Consequently, in the context of Thornbury, if development is demonstrated to be necessary, the use of BMV agricultural is likely to be inevitable. Assuming that Green Belt is avoided, the use of BMV will be necessary.

### **Weight to be Given**

- 7.13 In **Appendix KCC7** is a list of Planning Inspector and Secretary of State decisions where agricultural land quality was an issue. This is an indicative list rather than a comprehensive list. It can be seen that in most, but not all, cases where the quantum of BMV land is less than 20 ha limited weight is given to the loss of BMV land, unless it is sparse in a particular area.
- 7.14 There are four decisions that relate to the loss of 20 – 23 ha of BMV land and therefore a similar quantum to this appeal. In all cases the weight given to the loss was moderate.
- 7.15 I attach key pages from the SoS Decision Letter (DL) and Inspector's Report (IR) and reference them as follows:
- (i) **Appendix KCC8** Forest Heath, 20 ha BMV (IR 468), moderate weight against (DL 28, 36);
  - (ii) **Appendix KCC9** Warwick, 21.8 ha mainly Grade 2 (IR 7, 8), most land around settlement is of BMV quality and loss likely to be unavoidable (IR 452, 477), but moderate weight given (DL 26);

- (iii) **Appendix KCC10** East Staffordshire, 23 ha mostly Grade 2 (IR 11.1), need for development not demonstrated to be necessary (IR 11.5), development could involve poorer quality land (IR 11.7), the Inspector attached some weight (IR 11.10), the Secretary of State attached moderate weight (DL 14);
- (iv) **Appendix KCC11** Eastleigh, 22 ha mostly Grade 2 and Subgrade 3a (IR 115), but the degree of significance is likely to be informed by the amount of similar land in the area, on which there is limited information. Not substantial weight. The Secretary of State agreed, but gave the loss moderate weight (DL 24).

### **Planning Balance**

- 7.16 Obviously the planning balance is a matter for the Inspector, weighing up many considerations of which agricultural land is but one.
- 7.17 The site involves an amount of agricultural land that could be considered to be significant, and moderate weight is given to such a loss in many cases. However, as the analysis of Inspectors' decisions above and attached shows, the weight and the balance are influenced by the context. Where BMV land is relatively scarce in an area, or the development has not been shown to be necessary, greater weight in the balance is given.
- 7.18 This assessment does not consider whether the development has been demonstrated to be necessary. In the event that it is demonstrated to be necessary, however, it can be seen that the use of BMV agricultural land for non-agricultural development around Thornbury is likely to be an inevitability.
- 7.19 Therefore if development is demonstrated to be necessary, the use of BMV agricultural land in this case and context should not be a reason for refusal.

## 8 SUMMARY AND CONCLUSIONS

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- 8.1 The site extends to of the order of 36 ha of agricultural land. Of this approximately 24.7 ha is of BMV quality.
- 8.2 At over 20 ha of BMV the loss is a significant development of agricultural land, therefore. The NPPF requires that the economic and other benefits of this loss be recognised. Local Plan policy seeks to protect such land for its capabilities of producing food locally.
- 8.3 Nationally some 42% of agricultural land is predicted to be of BMV quality and in some parts of the country the proportion will be higher. It is not a scarce resource and planning policy seeks to ensure that it is properly considered, but does not provide a bar to its development.
- 8.4 Around Thornbury the land quality is widely known and is generally good. Detailed survey information shows generally good or very good quality land on the urban edge, to the west, north and east. To the south and southwest land quality is not known, but that area is constrained by other factors, especially the Green Belt.
- 8.5 Development management decisions around Thornbury have recognised, and approved, the development of BMV agricultural land.
- 8.6 The Core Strategy and Joint Spatial Plan emerging allocations also involve BMV agricultural land.
- 8.7 This evidence does not consider whether development of agricultural land is necessary. However, in the event that it is:
- development around Thornbury, as accepted in development management decisions recently, will involve BMVAL;
  - development in the Core Strategy will inevitably involve BMVAL;
  - Development around Thornbury in the JSP draft allocations will inevitably involve BMVAL.
- 8.8 The economic benefits of the BMV agricultural land on this site are limited.
- 8.9 The inevitability that BMVAL will need to be developed, and the abundance of it locally, mean that if agricultural land does need to be developed, the BMVAL on this site should not prevent its development.



## 9 DECLARATION

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- 9.1 In accordance with the requirements of the Royal Institution of Chartered Surveyors Practice Statement, "Surveyors acting as expert witnesses" (4<sup>th</sup> edition, 2014):
- (i) I confirm that my report includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.
  - (ii) I confirm that my duty to this Public Inquiry as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.
  - (iii) I confirm that I am not instructed under any conditional fee arrangement.
  - (iv) I confirm that I have no conflicts of interest of any kind other than those already disclosed in my report.
  - (v) I confirm that my report complies with the requirements of the Royal Institution of Chartered Surveyors (RICS), as set down in *Surveyors acting as expert witnesses*: RICS practice statement.

Signed:



(Tony Kernon)

Dated: 26/02/2022

**APPENDIX KCC1**  
**Curriculum Vitae**



## CURRICULUM VITAE

# ANTHONY PAUL KERNON

### SPECIALISMS

- Agricultural buildings and dwelling assessments
- Equestrian building and dwelling assessments (racing, sports, rehabilitation, recreational enterprises)
- Farm and estate diversification and development
- Assessing the impacts of major development proposals on agricultural land and rural businesses
- Land resources and impacts of development
- Expert witness work



### SYNOPSIS

Tony is a rural surveyor with 35 years experience in assessing agricultural and equestrian businesses and farm diversification proposals, and the effects of development proposals on them. Brought up in rural Lincolnshire and now living on a small holding in Wiltshire, he has worked widely across the UK and beyond. He is recognised as a leading expert nationally in this subject area. Married with two children. Horse owner.

Tony's specialism is particularly in the following key areas:

- assessing the need for agricultural and equestrian development, acting widely across the UK for applicants and local planning authorities alike;
- farm development and diversification planning work, including building reuse and leisure development, Class Q, camping etc;
- assessing development impacts, including agricultural land quality and the policy implications of losses of farmland due to residential, commercial, solar or transport development, and inputs to Environmental Assessment;
- and providing expert evidence on these matters to Planning Inquiries and Hearings, court or arbitrations.

### QUALIFICATIONS

Bachelor of Science Honours degree in Rural Land Management, University of Reading (BSc(Hons)). 1987. Awarded 2:1.

Diploma of Membership of the Royal Agricultural College (MRAC).

Professional Member of the Royal Institution of Chartered Surveyors (MRICS) (No. 81582). (1989).

### OTHER PROFESSIONAL ACTIVITIES

Co-opted member of the Rural Practice Divisional Council of the Royal Institution of Chartered Surveyors. (1994 - 2000)

Member of the RICS Planning Practice Skills Panel (1992-1994)

Member of the RICS Environmental Law and Appraisals Practice Panel (1994 - 1997).

Fellow of the British Institute of Agricultural Consultants (FBIAC) (1998 onwards, Fellow since 2004).

Secretary of the Rural Planning Division of the British Institute of Agricultural Consultants (BIAC) (1999 – 2017).

Vice-Chairman of the British Institute of Agricultural Consultants (2019 – 2020)

Chairman of the British Institute of Agricultural Consultants (2020 – 2022)

*Greenacres Barn, Stoke Common Lane,  
Purton Stoke, Swindon SN5 4LL  
T: 01793 771333 Email: [info@kernon.co.uk](mailto:info@kernon.co.uk)  
Website: [www.kernon.co.uk](http://www.kernon.co.uk)*



## EXPERIENCE AND APPOINTMENTS

- 1997 -----> **Kernon Countryside Consultants.** Principal of agricultural and rural planning consultancy specialising in research and development related work. Specialisms include essential dwelling and building assessments, assessing the effects of development on land and land-based businesses, assessing the effects of road and infrastructure proposals on land and land-based businesses, and related expert opinion work.
- 1987 - 1996 **Countryside Planning and Management,** Cirencester. In nearly ten years with CPM Tony was involved in land use change and environmental assessment studies across the UK and in Europe. From 1995 a partner in the business, work covered included feasibility studies for possible grant schemes, evaluation of planning controls and existing environmental schemes, assessments of the need for farm dwellings and related agricultural developments, Environmental Assessments and planning studies, and expert witness work.
- 1983 - 1984 **Dickinson Davy and Markham,** Brigg. Assistant to the Senior Partner covering valuation and marketing work, compulsory purchase and compensation, and livestock market duties at Brigg and Louth.

## RECENT RELEVANT EXPERIENCE

### TRAINING COURSES

- Landspreading of Non Farm Wastes.** Fieldfare training course, 24 – 25 November 2009  
**Foaling Course.** Twemlows Hall Stud Farm, 28 February 2010  
**Working with Soil: Agricultural Land Classification.** 1 – 2 November 2017

## TRANSPORT ENVIRONMENTAL ASSESSMENT CONTRIBUTIONS

- 1992 **Port Wakefield Channel Tunnel Freight Terminal, Yorkshire**  
1993 **A1(M) Widening, Junctions 1-6 (Stage 2)**  
1994 - 1995 **A55 Llanfairpwll to Nant Turnpike, Anglesey (Stage 3)**  
1994 - 1995 **A479(T) Talgarth Bypass, Powys (Stage 3)**  
1995 **Kilkhampton bypass (Stage 2)**  
1997 **A477 Bangeston to Nash improvement, Pembroke**  
2000 **Ammanford Outer Relief Road**  
2001 **A421 Great Barford Bypass**  
2001 **Boston Southern Relief Road**  
2003 **A40 St Clears - Haverfordwest**  
2003 **A470 Cwmbrach – Newbridge on Wye**  
2003 **A11 Attleborough bypass**  
2003 - 2008 **A487 Porthmadog bypass (Inquiry 2008)**  
2004 **A55 Ewloe Bypass**  
2004 **A40 Witney – Cogges link**  
2005 – 2007 **A40 Robeston Wathen bypass (Inquiry 2007)**  
2005 – 2007 **East Kent Access Road (Inquiry 2007)**  
2006 **M4 widening around Cardiff**  
2007 – 2008 **A40 Cwymbach to Newbridge (Inquiry 2008)**  
2007 **A483 Newtown bypass**  
2008 – 2009 **A470/A483 Builth Wells proposals**  
2009 – 2017 **A487 Caernarfon-Bontnewydd bypass (Inquiry 2017)**  
2009 – 2010 **North Bishops Cleeve extension**  
2009 – 2010 **Land at Coombe Farm, Rochford**  
2009 – 2011 **A477 St Clears to Red Roses (Inquiry 2011)**  
2010 – 2011 **Streethay, Lichfield**  
2010 – 2012 **A465 Heads of the Valley Stage 3 (Inquiry 2012)**

2013 – 2016	<b>A483/A489 Newtown Bypass mid Wales (Inquiry 2016)</b>
2013 - 2016	<b>High Speed 2 (HS2) rail link, Country South and London: Agricultural Expert for HS2 Ltd</b>
2015 – 2017	<b>A487 Dyfi Bridge Improvements</b>
2016 – 2018	<b>A465 Heads of the Valley Sections 5 and 6 (Inquiry 2018)</b>
2017 - 2018	<b>A40 Llanddewi Velfrey to Penblewin</b>
2017 – 2018	<b>A4440 Worcester Southern Relief Road</b>
2019 – 2020	<b>A40 Penblewin to Red Roses</b>
2019 – 2020	<b>A55 Jn 15 and 16 Improvements</b>

## EXPERT EVIDENCE GIVEN AT PUBLIC INQUIRIES AND HEARINGS

1992	<b>Brooklands Farm:</b> Buildings reuse <b>Chase Farm, Maldon:</b> Removal of condition	<b>Bonehill Mill Farm:</b> New farm building
1993	<b>Haden House:</b> Removal of condition	<b>Manor Farm:</b> New farm dwelling
1994	<b>Brooklands Farm:</b> 2 <sup>nd</sup> Inquiry (housing) <b>Barr Pound Farm:</b> Enforcement appeal <b>Fortunes Farm Golf Course:</b> Agric effects	<b>Cameron Farm:</b> Mobile home <b>Land at Harrietsham:</b> Enforcement appeal
1995	<b>Village Farm:</b> New farm dwelling <b>Claverdon Lodge:</b> Building reuse <b>Harelands Farm:</b> Barn conversion <b>Castle Nurseries:</b> Alternative site presentation	<b>Attlefield Farm:</b> Size of farm dwelling <b>Bromsgrove Local Plan:</b> Housing allocation <b>Lichfield Local Plan:</b> Against MAFF objection <b>Hyde Colt:</b> Mobile home / glasshouses <b>Highmoor Farm:</b> New farm dwelling <b>Gwenfa Fields:</b> Removal of restriction <b>Yatton:</b> Horse grazing on small farm <b>Newbury Local Plan:</b> Effects of development
1996	<b>Church View Farm:</b> Enforcement appeal <b>Flecknoe Farm:</b> Second farm dwelling	<b>Two Burrows Nursery:</b> Building retention <b>Dunball Drove:</b> Need for cattle incinerator
1997	<b>Basing Home Farm:</b> Grain storage issue <b>Viscar Farm:</b> Need for farm building / viability <b>Lane End Mushroom Farm:</b> Need for dwelling	<b>Lambriggan Deer Farm:</b> Farm dwelling
1998	<b>Moorfields Farm:</b> New farm dwelling <b>Maidstone Borough LPI:</b> Effects of dev'ment <b>Glenfield Cottage Poultry Farm:</b> Bldg reuse	<b>Coldharbour Farm:</b> Buildings reuse <b>Heathey Farm:</b> Mobile home <b>Wheal-an-Wens:</b> Second dwelling <b>Apsley Farm:</b> Buildings reuse <b>Home Farm:</b> Size of grainstore <b>A34/M4 Interchange:</b> Agricultural evidence <b>Weyhill Nursery:</b> Second dwelling <b>Mannings Farm:</b> Farm dwelling <b>Land Adj White Swan:</b> Access alteration <b>Happy Bank Farm:</b> Lack of need for building <b>Lower Park Farm:</b> Building reuse / traffic <b>Stourton Hill Farm:</b> Diversification
1999	<b>Holland Park Farm:</b> Farm dwelling / calf unit <b>Northington Farm:</b> Existing farm dwelling	<b>Darren Farm:</b> Impact of housing on farm <b>Greenways Farm:</b> Farm diversification <b>Land at Four Marks:</b> Dev site implications
2000	<b>Twin Oaks Poultry Unit:</b> Traffic levels <b>Meadows Poultry Farm:</b> Farm dwelling <b>Hazelwood Farm:</b> Beef unit and farm dwelling <b>Shardeloes Farm:</b> Farm buildings <b>Aylesbury Vale Local Plan:</b> Site issues <b>Deptford Farm:</b> Buildings reuse	<b>Oldberrow Lane Farm:</b> Relocation of buildings <b>Forestry Building, Wythall:</b> Forestry issues <b>Lower Dadkin Farm:</b> Mobile home <b>Villa Vista:</b> Viability of horticultural unit
2001	<b>Lambriggan Deer Farm:</b> Farm dwelling <b>Blueys Farm:</b> Mobile home	
2002	<b>A419 Calcutt Access:</b> Effect on farms <b>Cobweb Farm:</b> Buildings reuse / diversification <b>Philips Farm:</b> Farm dwelling <b>West Wilts Local Plan Inquiry:</b> Dev site <b>Manor Farm:</b> Building reuse	
2003	<b>Fairtrough Farm:</b> Equine dev and hay barn <b>Hollies Farm:</b> Manager's dwelling <b>Land at Springhill:</b> Certificate of lawfulness <b>Oak Tree Farm:</b> Mobile home	
2004	<b>Chytane Farm:</b> Objector to farm dwelling <b>Crown East:</b> Visitor facility and manager's flat <b>Swallow Cottage:</b> Widening of holiday use <b>Etchden Court Farm:</b> New enterprise viability <b>Attleborough Bypass:</b> On behalf of Highways Agency	

2005	<p><b>Howells School:</b> Use of land for horses  <b>Otter Hollow:</b> Mobile home  <b>Springfield Barn:</b> Barn conversion  <b>Ashley Wood Farm:</b> Swimming pool  <b>The Hatchery:</b> Mobile home  <b>Stockfields Farm:</b> Building reuse</p>	<p><b>Newton Lane:</b> Enforcement appeal  <b>Manor Farm:</b> Change of use class  <b>South Hatch Stables:</b> RTE refurbishment  <b>Trevaskis Fruit Farm:</b> Farm dwelling  <b>Tregased:</b> Enforcement appeal</p>
2006	<p><b>Manor Farm:</b> Replacement farmhouse  <b>Sough Lane:</b> Farm dwelling  <b>Whitewebbs Farm:</b> Enforcement appeal  <b>Land at Condicote:</b> Farm dwelling  <b>Rye Park Farm:</b> Enforcement appeal  <b>Woodrow Farm:</b> Buildings reuse  <b>Rectory Farm:</b> Retention of unlawful bldg  <b>Walltree Farm:</b> Retention of structures  <b>Weeford Island:</b> Land quality issues  <b>College Farm:</b> Relocation of farmyard</p>	<p><b>Bhaktivedanta Manor:</b> Farm buildings  <b>Military Vehicles:</b> Loss of BMV land  <b>Ermine Street Stables:</b> Enforcement appeal  <b>Featherstone Farm:</b> Replacement buildings  <b>Flambards:</b> Mobile home and poultry unit  <b>Manor Farm:</b> Effect of housing on farm  <b>Goblin Farm:</b> Arbitration re notice to quit  <b>Terrys Wood Farm:</b> Farm dwelling  <b>Etchden Court Farm:</b> Mobile home  <b>Hollowshot Lane:</b> Farm dwelling and buildings  <b>Barcroft Hall:</b> Removal of condition  <b>Kent Access Road:</b> Effect on farms  <b>Greys Green Farm:</b> Enforcement appeal  <b>A40 Robeston Wathen bypass:</b> Underpass  <b>Woodland Wild Boar:</b> Mobile homes</p>
2007	<p><b>Woolly Park Farm:</b> Manager's dwelling  <b>Park Gate Nursery:</b> Second dwelling  <b>Penyrheol Ias:</b> Retention of bund  <b>Hucksholt Farm:</b> New beef unit in AONB  <b>The Green, Shrewley:</b> Mobile home  <b>Brook Farm:</b> Retention of polytunnels</p>	<p><b>Whitegables:</b> Stud manager's dwelling  <b>Balaton Place:</b> Loss of paddock land  <b>Point to Point Farm:</b> Buildings / farm dwelling  <b>Norman Court Stud:</b> Size of dwelling  <b>High Moor:</b> Temporary dwelling  <b>Land at St Euny:</b> Bldg in World Heritage Area</p>
2008	<p><b>Weights Farm:</b> Second dwelling  <b>Hill Farm:</b> Mobile home  <b>Relocaton of Thame Market:</b> Urgency issues  <b>Spinney Bank Farm:</b> Dwelling / viability issues  <b>Higham Manor:</b> Staff accommodation  <b>Robeston Watham bypass:</b> Procedures Hearing  <b>Monks Hall:</b> Covered sand school  <b>Porthmadog bypass:</b> Road scheme inquiry</p>	<p><b>Baydon Meadow:</b> Wind turbine</p>
2009	<p><b>Claverton Down Stables:</b> New stables  <b>Hailsham Market:</b> Closure issues</p> <p><b>Gambledown Farm:</b> Staff dwelling  <b>Oak Tree Farm:</b> Farm dwelling  <b>A470 Builth Wells:</b> Off line road scheme  <b>Hill Top Farm:</b> Second dwelling  <b>Sterts Farm:</b> Suitability / availability of dwelling</p>	<p><b>Meadow Farm:</b> Building conversion  <b>Bishop's Castle Biomass Power Station:</b> Planning issues  <b>Foxhills Fishery:</b> Manager's dwelling  <b>Bryn Gollen Newydd:</b> Nuisance court case  <b>Swithland Barn:</b> Enforcement appeal  <b>Woodrow Farm:</b> Retention of building</p>
2010	<p><b>Poultry Farm, Christmas Common:</b> Harm to AONB  <b>Wellsprings:</b> Rention of mobile home  <b>Redhouse Farm:</b> Manager's dwelling  <b>Lobbington Fields Farm:</b> Financial test</p>	<p><b>Stubwood Tankers:</b> Enforcement appeal</p> <p><b>Meridian Farm:</b> Retention of building  <b>Swithland Barn:</b> Retention of building</p>
2011	<p><b>Fairtrough Farm:</b> Enforcement appeal  <b>Etchden Court Farm:</b> Farm dwelling  <b>Trottiscliffe Nursery:</b> Mobile home</p>	<p><b>A477 Red Roses to St Clears:</b> Public Inquiry  <b>Upper Bearfield Farm:</b> Additional dwelling  <b>North Bishops Cleeve:</b> Land quality issues  <b>Langborrow Farm:</b> Staff dwellings  <b>Heads of the Valley S3:</b> Improvements  <b>Seafield Pedigrees:</b> Second dwelling  <b>Beedon Common:</b> Permanent dwelling  <b>Upper Youngs Farm:</b> Stables / log cabin  <b>Tithe Barn Farm:</b> Enforcement appeal  <b>Lower Fox Farm:</b> Mobile home / building  <b>Tewinbury Farm:</b> Storage barn  <b>Church Farm:</b> Solar park construction</p>
2012	<p><b>Tickbridge Farm:</b> Farm dwelling  <b>Blaenanthir Farm:</b> Stables and sandschool  <b>Land at Stonehill:</b> Eq dentistry / mobile home  <b>Cwmcoedlan Stud:</b> Farm dwelling with B&amp;B</p>	
2013	<p><b>Barnwood Farm:</b> Farm dwelling  <b>Spring Farm Barn:</b> Building conversion  <b>Baydon Road:</b> Agricultural worker's dwelling  <b>Stapleford Farm:</b> Building reuse  <b>Meddler Stud:</b> Residential development</p>	

2014	<p><b>Deer Barn Farm:</b> Agricultural worker's dwelling  <b>Land at Stow on the Wold:</b> Housing site  <b>Allspheres Farm:</b> Cottage restoration  <b>Land at Stonehill:</b> Equine dentistry practice  <b>Spring Farm Yard:</b> Permanent dwelling  <b>Land at Valley Farm:</b> Solar park  <b>Land at Haslington:</b> Residential development  <b>Manor Farm:</b> Solar farm on Grade 2 land  <b>Penland Farm:</b> Residential development  <b>Sandyways Nursery:</b> Retention of 23 caravans</p>	<p><b>Land at Elsfield:</b> Retention of hardstanding  <b>Queensbury Lodge:</b> Potential development  <b>Kellygreen Farm:</b> Solar park development  <b>Spring Farm Barn:</b> Building conversion  <b>Land at Willaston:</b> Residential development  <b>Bluebell Cottage:</b> Enforcement appeal  <b>Clemmit Farm:</b> Mobile home  <b>Honeycrook Farm:</b> Farmhouse retention  <b>The Mulberry Bush:</b> Farm dwelling</p>
2015	<p><b>The Lawns:</b> Agricultural building / hardstanding  <b>Harefield Stud:</b> Stud farm / ag worker's dwelling  <b>Newtown Bypass:</b> Compulsory purchase orders  <b>Barn Farm:</b> Solar farm  <b>Hollybank Farm:</b> Temporary dwelling renewal  <b>Five Oaks Farm:</b> Change of use of land and temporary dwelling</p>	<p><b>Redland Farm:</b> Residential dev issues  <b>Emlagh Wind Farm:</b> Effect on equines  <b>Fox Farm:</b> Building conversion to 2 dwellings  <b>Wadborough Park Farm:</b> Farm buildings  <b>Delamere Stables:</b> Restricted use</p>
2016	<p><b>Clemmit Farm:</b> Redetermination  <b>The Lawns:</b> Replacement building  <b>Land at the Lawns:</b> Cattle building</p>	<p><b>Meddler Stud:</b> RTE and up to 63 dwellings  <b>Land off Craythorne Road:</b> Housing dev  <b>Berkshire Polo Club:</b> Stables / accomm</p>
2017	<p><b>Low Barn Farm:</b> Temporary dwelling  <b>High Meadow Farm:</b> Building conversion  <b>Windmill Barn:</b> Class Q conversion  <b>Land at Felsted:</b> Residential development</p>	<p><b>Harcourt Stud:</b> Temporary dwelling  <b>Clemmit Farm:</b> Second redetermination  <b>Stonehouse Waters:</b> Change of use of lake</p>
2018	<p><b>Thorney Lee Stables:</b> Temporary dwelling  <b>Benson Lane:</b> Outline app residential  <b>Park Road, Didcot:</b> Outline app residential  <b>Coalpit Heath:</b> Residential development</p>	<p><b>Watlington Road:</b> Outline app residential  <b>A465 Heads of the Valley 5/6:</b> Agric effects  <b>The Old Quarry:</b> Permanent dwelling  <b>Chilaway Farm:</b> Removal of condition</p>
2019	<p><b>Mutton Hall Farm:</b> Agric worker's dwelling  <b>Clemmit Farm:</b> Third redetermination  <b>Ten Acre Farm:</b> Enforcement appeal  <b>Harrold:</b> 94 Residential dwellings</p>	<p><b>Leahurst Nursery:</b> Temporary dwelling  <b>Icomb Cow Pastures:</b> Temp mobile home  <b>Forest Faconry:</b> Construction of hack pens</p>
2020	<p><b>Stan Hill:</b> Temp dwelling/agric. buildings  <b>Allspheres Farm:</b> Enlargement of farm dwelling</p>	<p><b>Hazeldens Nursery:</b> Up to 84 extra care units  <b>Leahurst Nursery:</b> Agricultural storage bldg</p>
2021	<p><b>Ruins:</b> Dwelling for tree nursery</p>	

**APPENDIX KCC2**  
**Natural England Technical Information**  
**Note TIN049**



# Agricultural Land Classification: protecting the best and most versatile agricultural land

**Most of our land area is in agricultural use. How this important natural resource is used is vital to sustainable development. This includes taking the right decisions about protecting it from inappropriate development.**

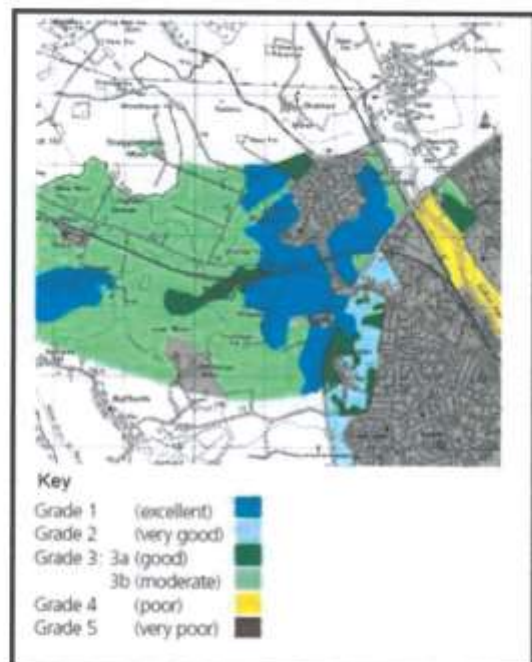
## Policy to protect agricultural land

Government policy for England is set out in the National Planning Policy Framework (NPPF) published in March 2012 (paragraph 112). Decisions rest with the relevant planning authorities who should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. The Government has also re-affirmed the importance of protecting our soils and the services they provide in the Natural Environment White Paper *The Natural Choice: securing the value of nature* (June 2011), including the protection of best and most versatile agricultural land (paragraph 2.35).

## The ALC system: purpose & uses

Land quality varies from place to place. The Agricultural Land Classification (ALC) provides a method for assessing the quality of farmland to enable informed choices to be made about its future use within the planning system. It helps

underpin the principles of sustainable development.



Agricultural Land Classification - map and key

## Agricultural Land Classification: protecting the best and most versatile agricultural land

The ALC system classifies land into five grades, with Grade 3 subdivided into Subgrades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a by policy guidance (see Annex 2 of NPPF). This is the land which is most flexible, productive and efficient in response to inputs and which can best deliver future crops for food and non food uses such as biomass, fibres and pharmaceuticals. Current estimates are that Grades 1 and 2 together form about 21% of all farmland in England; Subgrade 3a also covers about 21%.

The ALC system is used by Natural England and others to give advice to planning authorities, developers and the public if development is proposed on agricultural land or other greenfield sites that could potentially grow crops. The Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended) refers to the best and most versatile land policy in requiring statutory consultations with Natural England. Natural England is also responsible for Minerals and Waste Consultations where reclamation to agriculture is proposed under Schedule 5 of the Town and Country Planning Act 1990 (as amended). The ALC grading system is also used by commercial consultants to advise clients on land uses and planning issues.

### Criteria and guidelines

The Classification is based on the long term physical limitations of land for agricultural use. Factors affecting the grade are climate, site and soil characteristics, and the important interactions between them. Detailed guidance for classifying land can be found in: *Agricultural Land Classification of England and Wales: revised guidelines and criteria for grading the quality of agricultural land* (MAFF, 1988):

- **Climate:** temperature and rainfall, aspect, exposure and frost risk.
- **Site:** gradient, micro-relief and flood risk.
- **Soil:** texture, structure, depth and stoniness, chemical properties which cannot be corrected.

The combination of climate and soil factors determines soil wetness and droughtiness.

Wetness and droughtiness influence the choice of crops grown and the level and consistency of yields, as well as use of land for grazing livestock. The Classification is concerned with the inherent potential of land under a range of farming systems. The current agricultural use, or intensity of use, does not affect the ALC grade.

### Versatility and yield

The physical limitations of land have four main effects on the way land is farmed. These are:

- the range of crops which can be grown;
- the level of yield;
- the consistency of yield; and
- the cost of obtaining the crop.

The ALC gives a high grading to land which allows more flexibility in the range of crops that can be grown (its 'versatility') and which requires lower inputs, but also takes into account ability to produce consistently high yields of a narrower range of crops.

### Availability of ALC information

After the introduction of the ALC system in 1966 the whole of England and Wales was mapped from reconnaissance field surveys, to provide general strategic guidance on land quality for planners. This Provisional Series of maps was published on an Ordnance Survey base at a scale of One Inch to One Mile in the period 1967 to 1974. These maps are not sufficiently accurate for use in assessment of individual fields or development sites, and should not be used other than as general guidance. They show only five grades: their preparation preceded the subdivision of Grade 3 and the refinement of criteria, which occurred after 1976. They have not been updated and are out of print. A 1:250 000 scale map series based on the same information is available. These are more appropriate for the strategic use originally intended and can be downloaded from the Natural England [website](#). This data is also available on 'Magic', an interactive, geographical information website <http://magic.defra.gov.uk/>.

Since 1976, selected areas have been re-surveyed in greater detail and to revised



## Agricultural Land Classification: protecting the best and most versatile agricultural land

guidelines and criteria. Information based on detailed ALC field surveys in accordance with current guidelines (MAFF, 1988) is the most definitive source. Data from the former Ministry of Agriculture, Fisheries and Food (MAFF) archive of more detailed ALC survey information (from 1988) is also available on <http://magic.defra.gov.uk/>. Revisions to the ALC guidelines and criteria have been limited and kept to the original principles, but some assessments made prior to the most recent revision in 1988 need to be checked against current criteria. More recently, strategic scale maps showing the likely occurrence of best and most versatile land have been prepared. Mapped information of all types is available from Natural England (see *Further information* below).

### New field survey

Digital mapping and geographical information systems have been introduced to facilitate the provision of up-to-date information. ALC surveys are undertaken, according to the published Guidelines, by field surveyors using handheld augers to examine soils to a depth of 1.2 metres, at a frequency of one boring per hectare for a detailed assessment. This is usually supplemented by digging occasional small pits (usually by hand) to inspect the soil profile. Information obtained by these methods is combined with climatic and other data to produce an ALC map and report. ALC maps are normally produced on an Ordnance Survey base at varying scales from 1:10,000 for detailed work to 1:50 000 for reconnaissance survey

There is no comprehensive programme to survey all areas in detail. Private consultants may survey land where it is under consideration for development, especially around the edge of towns, to allow comparisons between areas and to inform environmental assessments. ALC field surveys are usually time consuming and should be initiated well in advance of planning decisions. Planning authorities should ensure that sufficient detailed site specific ALC survey data is available to inform decision making.

### Consultations

Natural England is consulted by planning authorities on the preparation of all development

plans as part of its remit for the natural environment. For planning applications, specific consultations with Natural England are required under the Development Management Procedure Order in relation to best and most versatile agricultural land. These are for non agricultural development proposals that are not consistent with an adopted local plan and involve the loss of twenty hectares or more of the best and most versatile land. The land protection policy is relevant to all planning applications, including those on smaller areas, but it is for the planning authority to decide how significant the agricultural land issues are, and the need for field information. The planning authority may contact Natural England if it needs technical information or advice.

Consultations with Natural England are required on all applications for mineral working or waste disposal if the proposed afteruse is for agriculture or where the loss of best and most versatile agricultural land agricultural land will be 20 ha or more. Non-agricultural afteruse, for example for nature conservation or amenity, can be acceptable even on better quality land if soil resources are conserved and the long term potential of best and most versatile land is safeguarded by careful land restoration and aftercare.

### Other factors

The ALC is a basis for assessing how development proposals affect agricultural land within the planning system, but it is not the sole consideration. Planning authorities are guided by the National Planning Policy Framework to protect and enhance soils more widely. This could include, for example, conserving soil resources during mineral working or construction, not granting permission for peat extraction from new or extended mineral sites, or preventing soil from being adversely affected by pollution. For information on the application of ALC in Wales, please see below.

## Agricultural Land Classification: protecting the best and most versatile agricultural land

### Further information

Details of the system of grading can be found in: *Agricultural Land Classification of England and Wales: revised guidelines and criteria for grading the quality of agricultural land* (MAFF, 1988).

Please note that planning authorities should send all planning related consultations and enquiries to Natural England by e-mail to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk). If it is not possible to consult us electronically then consultations should be sent to the following postal address:

Natural England  
Consultation Service  
Hornbeam House  
Electra Way  
Crewe Business Park  
CREWE  
Cheshire  
CW1 6GJ

ALC information for Wales is held by Welsh Government. Detailed information and advice is available on request from Ian Rugg ([ian.rugg@wales.gsi.gov.uk](mailto:ian.rugg@wales.gsi.gov.uk)) or David Martyn ([david.martyn@wales.gsi.gov.uk](mailto:david.martyn@wales.gsi.gov.uk)). If it is not possible to consult us electronically then consultations should be sent to the following postal address:

Welsh Government  
Rhodfa Padarn  
Llanbadarn Fawr  
Aberystwyth  
Ceredigion  
SY23 3UR

Natural England publications are available to download from the Natural England website: [www.naturalengland.org.uk](http://www.naturalengland.org.uk).

For further information contact the Natural England Enquiry Service on 0300 060 0863 or e-mail [enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk).

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**Appendix KCC3**  
**Extracts from John Nix Pocketbook for**  
**Farm Management**





# John Nix Pocketbook

FOR FARM MANAGEMENT



**2022** 52<sup>ND</sup>  
EDITION

The most comprehensive business information in British agriculture

*Graham Redman*

## II. ENTERPRISE DATA

### 1. CROPS

#### WHEAT

##### Feed Winter Wheat

Production level	Low	Average	High	
Yield: t/ha (t/ac)	7.25 (2.9)	8.60 (3.5)	9.75 (3.9)	
	£	£	£	£/t
<b>Output at £160/t</b>	1,160 (470)	1,376 (557)	1,560 (632)	160
Variable Costs £/ha (£/ac):				
Seed.....		68 (28)		8
Fertiliser.....		220 (89)		26
Sprays.....		255 (103)		30
<b>Total Variable Costs</b>		543 (220)		63
<b>Gross Margin £/ha (ac)</b>	<b>617 (250)</b>	<b>833 (337)</b>	<b>1,017 (412)</b>	<b>97</b>

Fertiliser Basis 8.6t/ha				Seed:		Sprays £/ha:	
Nutrient	Kg/t	Kg/ha	£/ha	£/t C2	£430	Herbicides	£103
N	22	190	£151	Kg/ha	175	Fungicides	£121
P	6.5	56	£49	% HSS	30%	Insecticides	£8
K	5.5	47	£20	£/t HSS	£301	PGRs	£18
						Other	£6

1. *Yields.* The average yield is for all winter feed wheat, i.e. all varieties and 1<sup>st</sup> and subsequent wheats. See over for more on First and Second Wheats. The overall yield used for feed and milling wheats including spring varieties calculates as 8.4t/ha, the national average all-wheat yield (ex-2020).
2. *Straw* is costed as incorporated. Average yield and price are approximately 4.2 tonnes per hectare at £55/tonne (£5 more in small bales); variable costs (string) approx. £3.70 per tonne. Unbaled straw (sold for baling): anything from £50/ha (£20/acre) to £100/ha (£40/acre), national average around £85/ha (£34/acre). Account for minerals and organic matter taken from soil if removing straw.
3. *Seed* is costed with a single purpose dressing. Up to a third of growers require additional seed treatments, specifically to suppress BYDV. This can add £140 per tonne of seed (£24.80/ha). This has not been added in the gross margins so should be considered.
4. This schedule does not account for severe *grass weed infestations* such as Black Grass or Sterile Brome. Costs associated with managing such problems can amount to up to £160/hectare additional agrochemical costs. Yield losses increase as infestation rises:

##### Yield losses from Black Grass Infestations

Grass plants/m <sup>2</sup>	Yield loss t/ha	% yield loss	References:
8-12	0.2-0.4	2-5%	Roebuck, J.F. (1987).
12-25	0.4-0.8	5-15%	B.C.P.C. and
100	1-2	15-25%	Blair A, Cussans J.
>300	+3	37%	Lutman P (1999).

**Suckler Cows**

**Single Suckling (per Cow): Lowland**

System	Spring Calving 8 months		Autumn Calving 12 Months	
	Average	High	Average	High
Performance Level	£	£	£	£
Value of Store Calf Sold	615	695	815	866
Calf Sales per year	523	619	693	754
<b>Less</b> Cow and Bull Depreciation	114	114	129	129
Calf Purchases & Bull Maint.	13	13	15	15
<b>Output £/cow/year</b>	<b>396</b>	<b>492</b>	<b>548</b>	<b>609</b>
Variable Costs £/cow/yr:				
Concentrate (Cow and Calf)	48	40	82	74
Vet & Med	34	34	36	36
Bedding	42	42	48	48
Miscellaneous	35	36	38	41
<b>Variable Costs (ex. forage)</b>	<b>159</b>	<b>152</b>	<b>204</b>	<b>199</b>
<b>Gross Margin £/Cow/yr</b>				
ex. Forage	237	340	344	410
Forage Variable Costs	97	97	97	97
Purchased Bulk Feeds	14	12	22	18
<b>Gross Margin £/Cow</b>	<b>126</b>	<b>231</b>	<b>226</b>	<b>296</b>
<b>Stocking Rate: Cows/Ha. (Acre)</b>	1.50 (0.6)	1.50 (0.6)	1.50 (0.6)	1.50 (0.6)
<b>Gross Margin £/Forage Ha (Acre)</b>	<b>189 (76)</b>	<b>347 (140)</b>	<b>338 (137)</b>	<b>443 (179)</b>

1. *System*: Relates to performance per year. Assumed 390 days average calving interval, showing figures per 365-day period. Calves sold at approximately 8-months for spring calvers and 12-months for autumn calvers.
2. *Performance level*: relates to variations in both outputs and inputs.

Calving Period	Spring Calving		Autumn Calving	
	Average	High	Average	High
Calf Sale Weights (kg)	280	309	371	385
Sale Age (Days)	250	240	365	340
Sale Prices (£/kg)	£2.20	2.25	£2.20	2.25
Calves reared per 100 cows mated	85	89	85	87

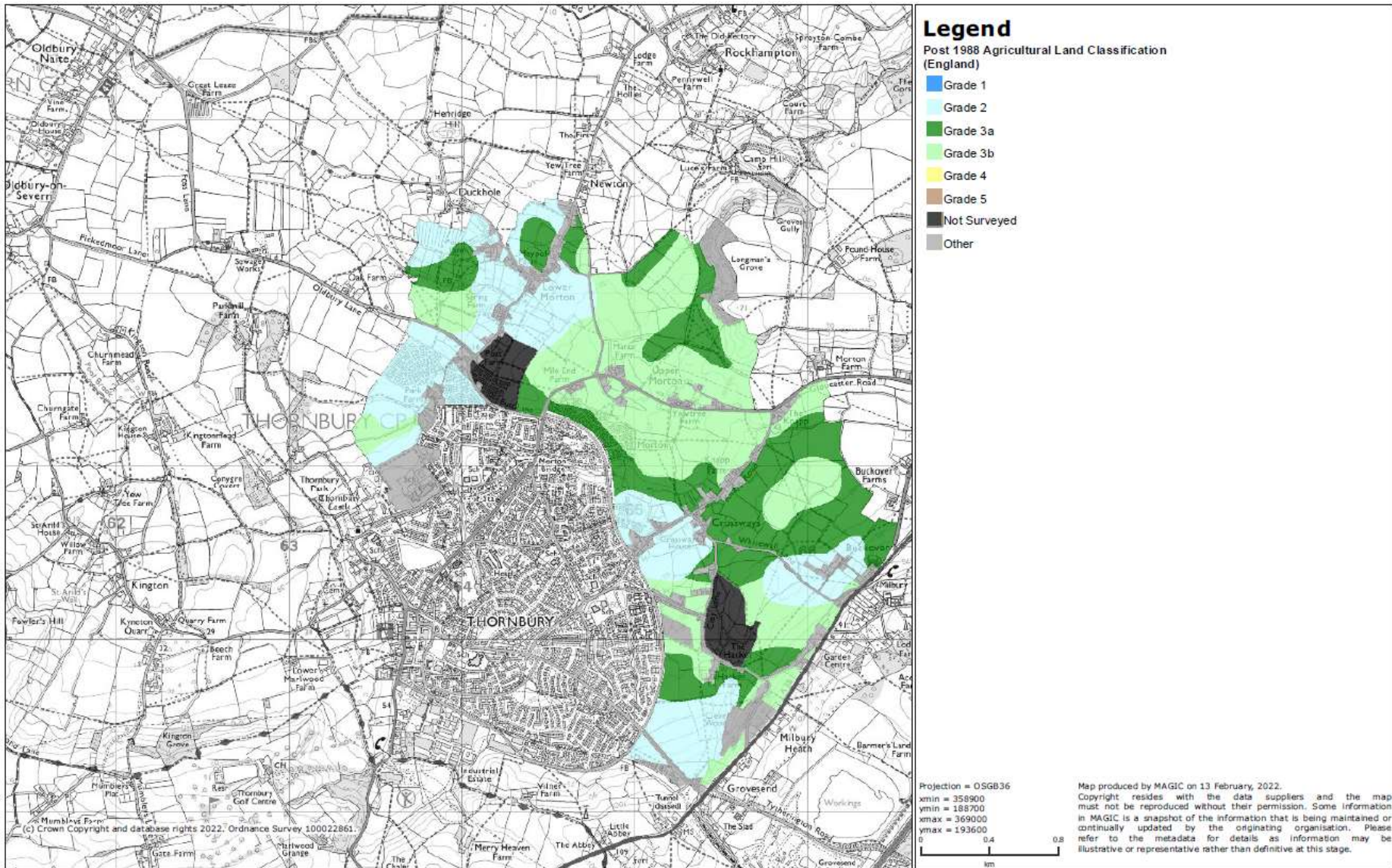
3. *Cow & Bull Depreciation*:

	Spring C.	Autumn C.	Bull
Purchase Price - £	£1,600	£1,600	£2,000
Cull Price - £	£750	£750	£850
Animal Life (Years)	8	7	5
Depreciation £/cow	£106	£121	£8

4. *Calf Purchases*: £211 each, 3 per 100 cows mated (spring calving) 4 per 100 cows mated (autumn calving). Bull maintenance £192/year per 30 cows.



**APPENDIX KCC4**  
**ALC Results Thornbury**  
**[www.magic.gov.uk](http://www.magic.gov.uk)**



## **Appendix KCC5**

### **Core Strategy Allocations: Land Quality**

- **Core Strategy Figure 13**
- **Nature on the Map (boundary shown in red)**
- **Predictive BMV Extract**

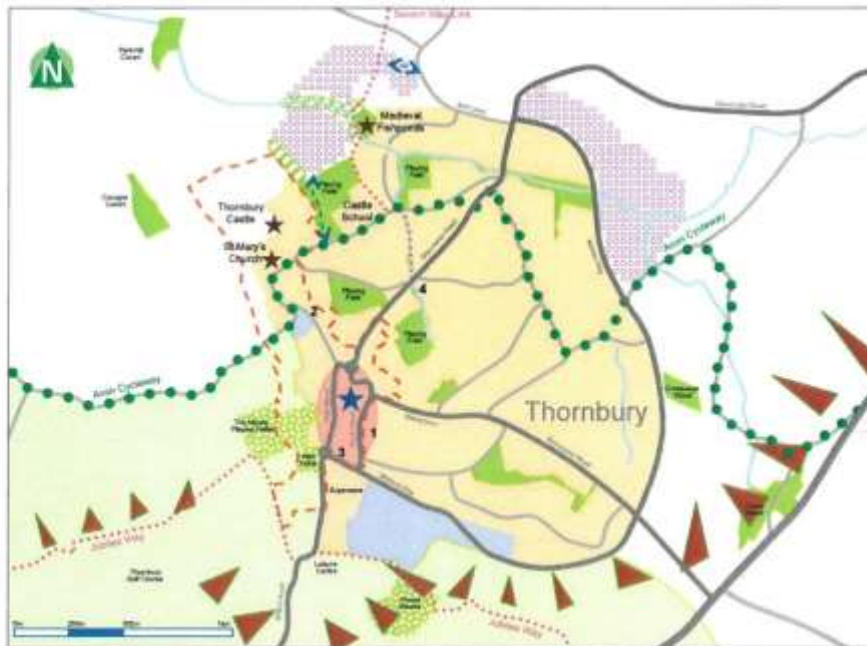
## Vision

In the period to 2027 and beyond, Thornbury will be a thriving and socially cohesive historic market town with a diverse range of employment opportunities and modern healthcare facilities. The vibrant town centre will provide a range of facilities for the needs of its residents, visitors and workers, as well as its surrounding villages and farming communities.

These aims will be supported by an appropriate amount of high quality housing growth which will help to strengthen and develop the town centre, local schools and community facilities and activities. This growth will provide for the needs of young families and the elderly. The town centre will build on its rich historic character and setting and will promote itself as an attraction, a centre for the arts and an exciting place to shop.

Figure 13 - Thornbury

(for illustrative purposes only)

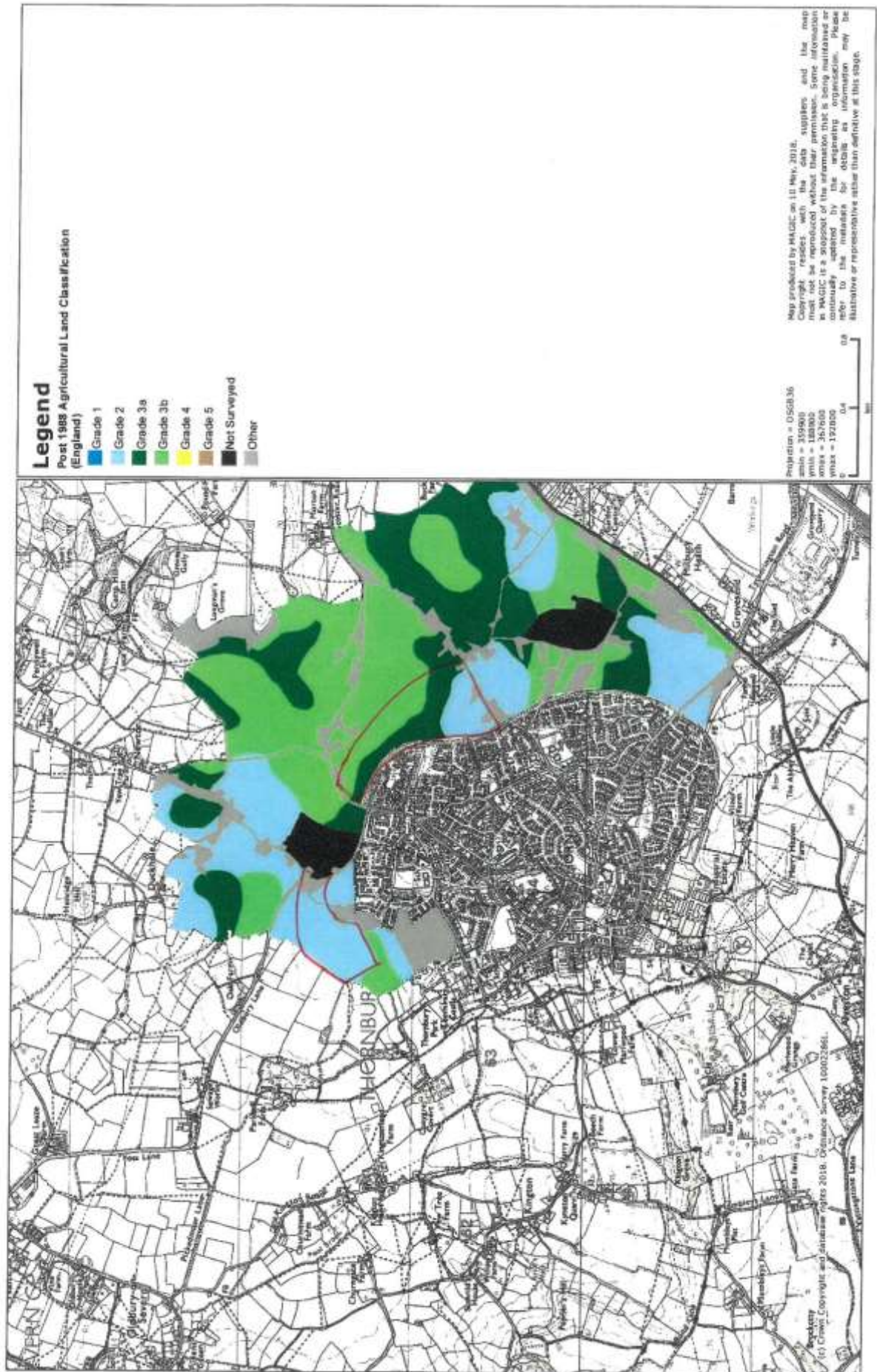


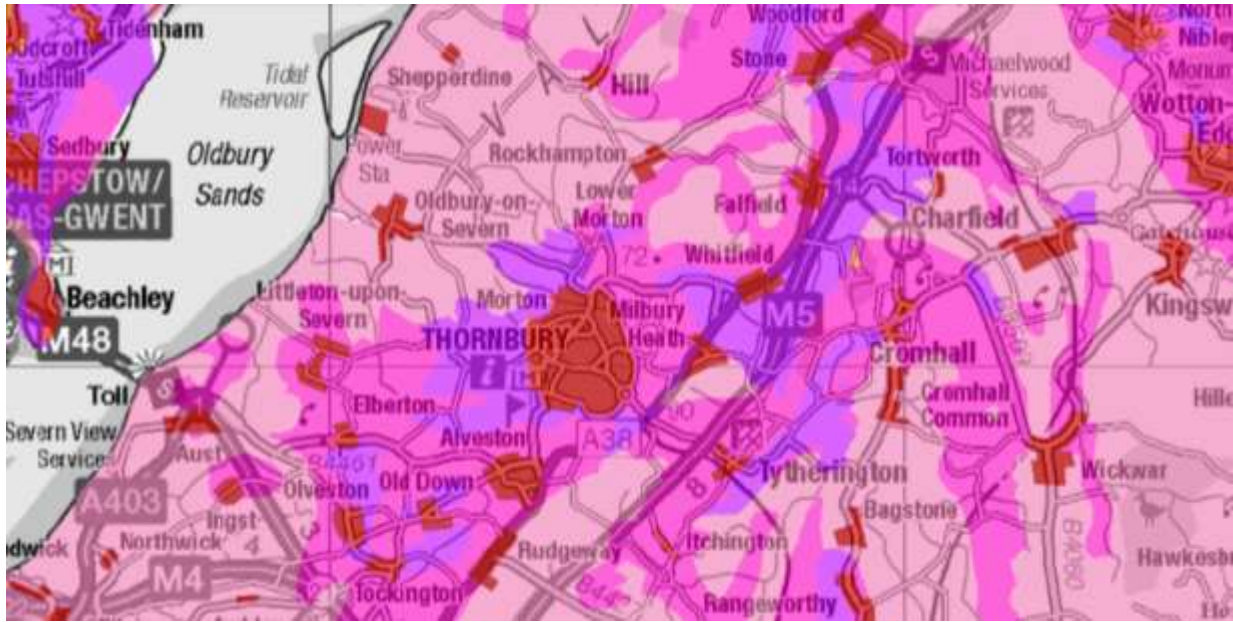
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- |   |  |   |
|---|--|---|
| <ul style="list-style-type: none"> <li> Thornbury Housing Opportunity Areas</li> <li> Green Belt Area</li> <li> Significant Green Infrastructure (GI)</li> <li> Significant GI in the Green Belt</li> <li> Visually Important Hillside</li> <li>1 Turnberrie's - Community Meeting Place</li> <li>2 The Chantry - Community Meeting Place</li> <li>3 Armstrong Hall &amp; Thornbury Museum</li> <li>4 Thornbury Hospital and Health Centre</li> </ul> | <ul style="list-style-type: none"> <li> Main Built Up Area</li> <li> Employment Area</li> <li> Conservation Area</li> <li> Thornbury Town Centre</li> <li> Heritage Asset</li> <li> Community &amp; Transport Connections</li> </ul> | <ul style="list-style-type: none"> <li> Major Road</li> <li> Other Road</li> <li> Long Distance Footpath</li> <li> Avon Cycleway</li> <li> Watercourse</li> <li> Indicative Development Buffer</li> </ul> |
|---|--|---|



Magic Map





## Predictive BMV Land Assessment © Defra

- High likelihood of BMV land (>60% area bmv)
- Moderate likelihood of BMV land (20 - 60% area bmv)
- Low likelihood of BMV land (<= 20% area bmv)
- Non-agricultural use
- Urban / Industrial

## **Appendix KCC6**

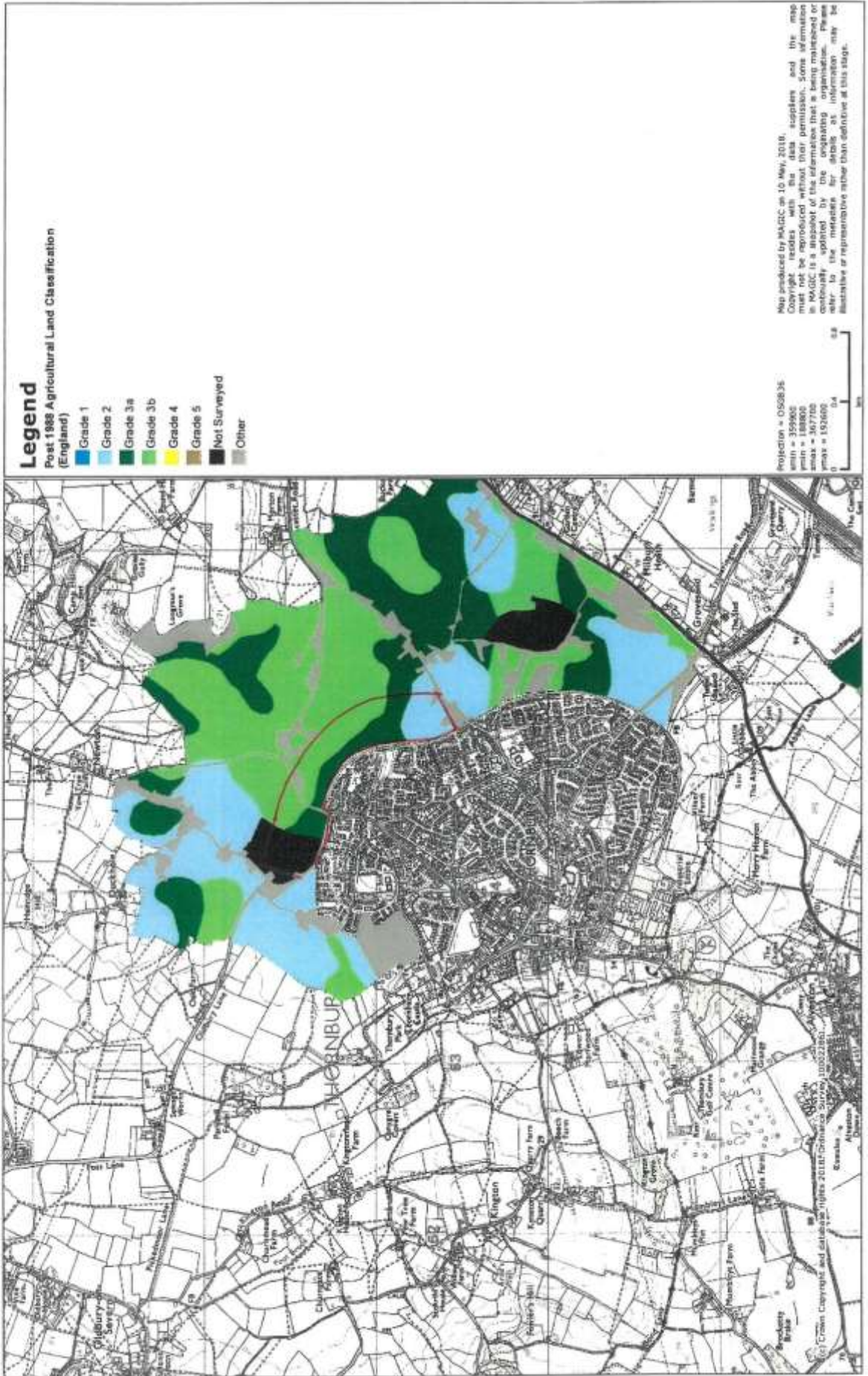
### **Joint Spatial Plan Allocations: Land Quality**

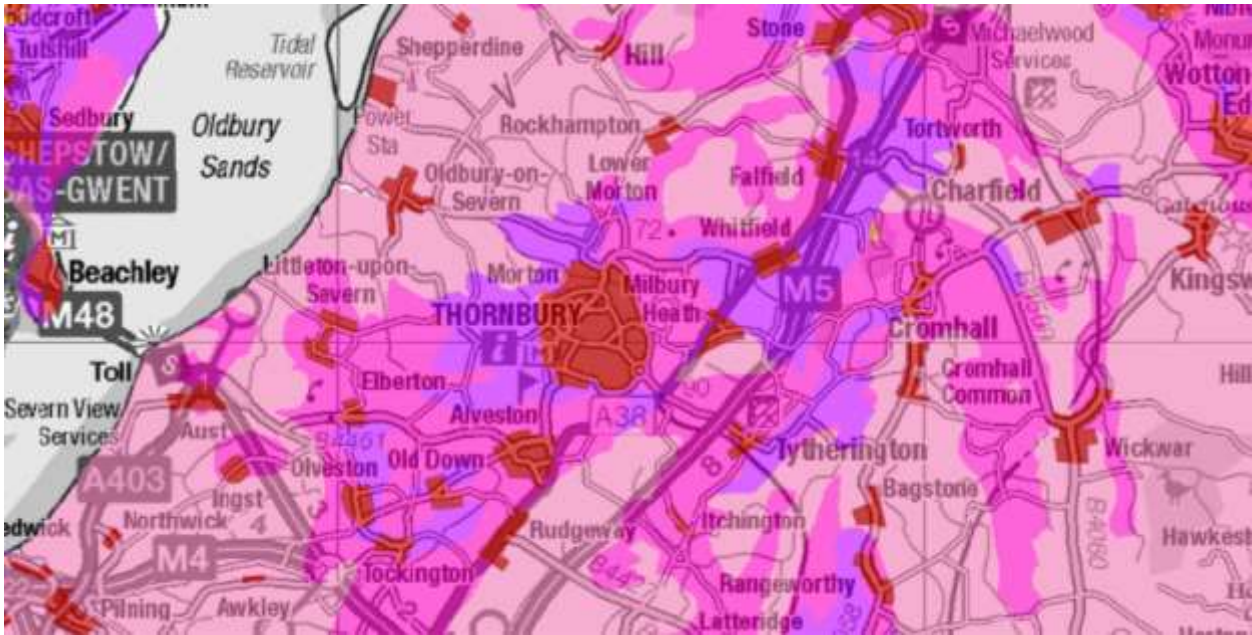
- **JSP Extract**
- **Nature on the Map (boundary shown  
in red)**
- **Predictive BMV Extract**











## Predictive BMV Land Assessment © Defra

- High likelihood of BMV land (>60% area bmv)
- Moderate likelihood of BMV land (20 - 60% area bmv)
- Low likelihood of BMV land (<= 20% area bmv)
- Non-agricultural use
- Urban / Industrial

**APPENDIX KCC7**  
**Planning Inspector and Secretary of**  
**State Decisions**

Local Planning Authority	Appeal Ref	Decision Date	Grades	Ha	Inspector	Paragraph reference	Secretary of State	Decision
Dover	APP/X2220/W/17/3187592	28/09/2018	2 and 3a	1	Majority of land in district BMV. Therefore loss of BMV inevitable. Loss is very limited having regard to wider district. Complies with paragraph 170.	13-16		Allowed
South Derbyshire DC	APP/F1040/W/20/3261872	30/03/2021	3a	1	Development would moderately harm the availability of BMV land. The scheme conflicts with the agricultural and economic aims of LP2 policies BNE4, BNE5 and requirements of the Framework.	25		Dismissed
Milton Keynes	APP/Y0435/W/18/3214365	26/09/2019	3a	1.6	Considered to be loss of significant amount of BMV. Unacceptable loss of BMV. Disregards site would be small in context of whole borough.	33-35		Allowed
North Devon	APP/X1118/W/16/3154193	06/01/2017	2	2	Not significant re para 112 given ALC of area	41 - 43		Allowed
Cheshire East	APP/R0660/A/14/2216767	14/01/2015	2 and 3a	2	Does not weigh heavily against	32 - 33		Allowed
Malvern Hills	APP/J1860/W/17/3192152	08/08/2018	2	2	Refers to grade 3b being BMV? No evidence of alternative sites of lower quality. Unacceptable loss of significant amount of agricultural land.	13-18		Dismissed
Warrington	APP/M0655/W/19/3222603	02/11/2020	2	2	Minor weight and not unacceptable impact on land in area	MR 416	Agreed – minor weight	Dismissed
N W Leicestershire	APP/G2435/W/16/3153781	07/07/2017	3a	3	Less than 20ha is low amount of land	41		Dismissed
Flyde	APP/M2325/W/17/3166394	18/08/2017	2	3	Significant Grade 2 locally. Limited weight against	59		Allowed
Uttlesford	APP/C1570/W/16/3156864	11/07/2017	2 and 3a	3	Significant development and greater weight	18 - 24		Dismissed
South Cambridgeshire	APP/W0530/W/16/3144909	07/06/2016	2	3	No evidence of availability of lesser quality. Moderate weight against	27 - 29		Dismissed

Local Planning Authority	Appeal Ref	Decision Date	Grades	Ha	Inspector	Paragraph reference	Secretary of State	Decision
Cheshire East	APP/R0660/A/13/2197532		2 & 3a	3	The loss here cannot be judged as significant.	14	SoS agrees proposed development would result in loss of BMVAL. Further agrees area of land is modest and predominantly at lower grade, and that its loss cannot be judged significant.	Sos agreed with the Inspector Allowed
Thanet DC	APP/Z2260/W/20/3252380	18/12/2020	1 & 2	3	Proposal would result in the loss of BMVL. LP Policy E16 requires that the benefits of the proposal outweigh the harm resulting in the loss of land.	20		Dismissed
Havant BC	APP/X1735/W/20/3259067	13/07/2021	1 & 2	4	No evidence regarding agricultural quality of the site in comparison to other land in the borough, relatively small area, minor impact.	82 - 83		Dismissed
Cheshire East Council	APP/R0660/A/13/2189733	18/10/2013	BMV (grades not specified)	4	Loss of BMV land would be modest at worst. Whilst the loss of some BMV land is a disbenefit, in the context of this proposal the loss is of minor weight	57		Allowed
Cheshire East	APP/R0660/W/15/3132073	18/08/2016	2 and 3a	5	Not significant development, BMV locally, localised harm	53 - 55		Allowed
Forest of Dean	APP/P1615/A/14/2228822	08/05/2017	2 and 3a	5	Relatively small area, limited weight	72 - 73		Allowed
Vale of White Horse	APP/V2130/W/15/3141276	20/05/2016	2 and 3	5	Not significant in context of 20ha consultation threshold and para 112	22 - 26		Allowed
Vale of White Horse	APP/V3120/W/15/3129361	19/02/2016	1, 2 and 3a	5	Not significant in terms of para 112, but still slight harm	5 - 8		Allowed
Cheshire East	APP/R0660/W/17/3173355	07/07/2017	3a	5	Would not be significant in terms of the Framework, matter for the planning balance	34 - 35		Dismissed
South Gloucestershire	APP/P0119/W/17/3191477	06/09/2018	3a	5	Having regard to the amount of BMV land that will be required for development, insignificant.	57		Allowed

Local Planning Authority	Appeal Ref	Decision Date	Grades	Ha	Inspector	Paragraph reference	Secretary of State	Decision
Braintree	APP/Z1510/W/17/3180729	8/06/2019	Assumed 2	5	Does not deal with significance but identifies that there would be little opportunity to use poorer quality land. Does not conflict with paragraph 112.	505 - 509	Development would not protect BMV as required by Policy CS8 but that this policy is inconsistent with paragraphs 170,171 and footnote 53 of framework. Limited weight given to conflict with CS8.	Allowed
Central Beds	APP/P0240/W/17/3176387	9/06/2018	3a	5	Would not pass 20ha consultation threshold. District has high proportion of BMV. Loss of BMV would not be significant in economic terms and afforded limited weight.	53 - 57		Allowed
Durham	APP/X1355/W/16/3165490	29/09/2017	2 and 3a	5	Not significant on any reasonable assessment	89 - 95		Allowed
Fareham	APP/A1720/W/16/3156344	14/08/2017	1 and 2	6	Not significant where sequential approach engaged. Limited harm	28 - 30		Allowed
North Hertfordshire	APP/X1925/W/17/3184846	18/01/2019	3a	6.5	Loss of this amount of BMV would have relatively minor adverse economic and environmental effects.	48		Dismissed
Suffolk Coastal	APP/J3530/W/15/3011466	25/04/2016	3a	7	A factor to be weighed in the balance	59		Allowed
South Oxfordshire	APP/Q3115/W/17/3188474	27/06/2018	2 and 3a	7	Parties agreed to give moderate weight. Not significant in context of high quantities of BMV land around Didcot.	52		Dismissed
South Oxfordshire	APP/Q3115/W/17/3186858	29/05/2018	2 and 3a	7	Less than Natural England 20 ha consultation threshold. High proportion of BMV land in SODC. Concluded that development is not significant.	60 - 61		Allowed
South Staffordshire	APP/C3430/W/18/3213147	3/05/2019	2 and 3a	8	Does not deal with 'significance' but sets out that harm caused by loss of grade 2 would be limited.	54		Allowed
Boston	APP/Z2505/W/17/3170198	25/10/2017	1	10	Limited by difficulties of delivering housing in area of high quality land	51		Allowed

Local Planning Authority	Appeal Ref	Decision Date	Grades	Ha	Inspector	Paragraph reference	Secretary of State	Decision
Flyde	APP/M2325/W/16/3144925	23/01/2017	3a	11	Large amount of grade 2 and 3 in area, minor weight against	15		Allowed
Forest of Dean	APP/P1615/W/15/3005408	11/04/2018	2 and 3a	11	Weight depends upon level of need. In this case limited weight	14.15, 14.56	Agrees limited weight	Allowed
Teignbridge	APP/P1133/A/12/2188938	10/09/2013	1 and 2	11	Loss would be small in terms of overall proportions.	12.58 – 12.60	Harm lessened as small in terms of proportions	Allowed
Uttlesford	APP/C1570/A/14/2221494	02/06/2015	2 and 3a	12	Loss modest in context of land quality in area. Limited weight against	49 - 51		Dismissed
West Lancashire	APP/P2365/W/15/3132596	22/03/2018	2 and 3a	13	Loss of small proportion of overall BMV in the Borough. However, will involve loss of significant area of BMV land.	29 - 32		Dismissed
East Hertfordshire	APP/J1915/A/14/2220854	03/03/2016	2	14	Loss of 14ha Grade 2 noted, no weight attributed	76	Moderate weight against	Allowed
South Gloucestershire	APP/P0119/W/17/3182296	3/05/2018	BMV (grades not specified)	14	Any development around local town likely to lead to some loss of BMV. No economic arguments put forward to indicate significant harm and conflict with para 112. Identified that there would be harm but does not quantify this.	53, 74		Allowed
Forest Heath	APP/H3510/V/14/2222871	28/07/2015	Not stated	20	Adverse factor that weighs against	468	Adverse effect that carries moderate weight against	Refused by SoS contrary to Inspector
Warwick	APP/T3725/A/14/2229398	14/01/2016	2	22	No evidence housing need can be met avoiding BMV	452	Moderate weight against	Allowed
East Staffordshire	APP/B3410/W/15/3134848	18/11/2016	2 and 3a	23	Significant development and BMV reasonably scare locally, development not demonstrated to be necessary, some weight to harm	11.1 – 11.10	Moderate weight against	Dismissed
Eastleigh	APP/W1715/A/14/2228566	09/11/2016	2 and 3a	23	Not substantial weight against	115	Moderate weight against	Dismissed
Suffolk Coastal	APP/J3530/W/15/3138710	31/08/2017	1 and 2	31	No specific consideration given		Moderate weight against (para 28)	Allowed



Local Planning Authority	Appeal Ref	Decision Date	Grades	Ha	Inspector	Paragraph reference	Secretary of State	Decision
Uttlesford	APP/C1570/A/14/2213025	25/08/2016	2 and 3a	40	Much of the area around is BMV and it would be difficult not to use if using greenfield land	15.47	SoS affords the loss limited weight against given much of land in area is BMV	Dismissed in line with recommendation
Tewkesbury	APP/G1630/V/14/2229497	04/12/2015	2 and 3a	42	Inevitable where large scale urban extensions required. Moderate degree of harm	15.41	Moderate weight against	Allowed
Guildford	APP/Y3615/W/16/3159894	13/06/2018	2 and 3a	44	Loss of BMV weighs against the proposals	20.152	Loss of BMV weighs against and is given considerable weight.	Dismissed
Aylesbury Vale	APP/J0405/A/14/219574	09/08/2016	2 and 3a	55	Grade 2 relatively sparse locally. Moderate weight against	7.74 – 7.80	Moderate weight against	Dismissed



**APPENDIX KCC8**  
**Forest Heath Decision**



Department for  
Communities and  
Local Government

Mr T Blaney  
Trevor Blaney Planning  
Burgh House  
Waldron  
Nr HEATHFIELD  
East Sussex  
TN21 0SB

Our Ref: APP/H3510/V/14/2222871

31 August 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION MADE BY LORD DERBY  
LAND AT HATCHFIELD FARM, FORDHAM ROAD, NEWMARKET  
APPLICATION REF: DC/13/0408/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christina Downes BSc, DipTP, MRTPI who held a public local inquiry from 14 April – 1 May 2015 into your client's application for outline planning permission for up to 400 dwellings plus associated open space (including areas of habitat enhancement) foul and surface water infrastructure, two accesses onto the A142, internal footpaths, cycle routes and estate roads at Hatchfield Farm, Fordham Road, Newmarket in accordance with application reference DC/13/0408/OUT dated 2 October 2013.

**Inspector's recommendation and summary of the decision**

2. The Inspector recommended that outline planning permission be granted. For the reasons set out below, the Secretary of State disagrees with the Inspector's recommendation and he has decided to refuse outline planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers are to that report.

**Matters arising since the inquiry**

3. Following the close of the inquiry, the Secretary of State received representations submitted by the Newmarket Horsemen's Group dated 18 September 2015 and by the Rt Hon Matthew Hancock MP dated 18 September 2015. On 7 October 2015 the Secretary of State wrote to parties to give them the opportunity to submit comments on these representations and, on 30 October 2015, he circulated the representations he had received.

Maria Stasiak  
Planning Casework Division  
Department for Communities and Local Government  
3<sup>rd</sup> Floor, Fry Building  
2 Marsham Street  
London, SW1P 4DF

Tel 0303 444 1624  
Email [pcc@communities.gsi.gov.uk](mailto:pcc@communities.gsi.gov.uk)

scheme would result in a significant adverse impact (IR447). He also concurs with the Inspector's views in respect of arable weeds at IR448-450.

26. The Secretary of State is therefore satisfied that the application proposal would not give rise to conflict with Spatial Objective ENV 1 or Policy CS 2 in the CS or Policies DM10, DM11 and DM12 in the JDMPD. He also concludes that the proposal would comply with Paragraph 118 of the Framework.

*Whether the proposed development would be premature*

27. The Secretary of State has taken into account the progress that has been made on the SIR since the inquiry, but has concluded (paragraphs 10-12 above) that the emerging plan carries little weight. He has considered the Inspector's analysis at IR455-464, and taken into account that there is now a 5 year housing land supply. He has also taken into account the Council's statement in their representation of 20 March, that the RAF Mildenhall site is not expected to come forward until 2020, and that should the position change fundamentally, the Council will undertake a review of their Local Plan. The Secretary of State agrees with the Inspector at IR462 that the proposed development would not constrain decisions on the timing, location and amount of development to be allocated in the SIR (IR462), and does not consider that the proposed development would be premature.

*Loss of countryside and agricultural land*

28. The Secretary of State has taken account of the Inspector's remarks that the proposal would result in the loss of about 20 hectares of best and most versatile agricultural land and that it would involve development in the countryside (IR468). Like the Inspector (IR469) he considers that the loss of countryside and best and most versatile agricultural land would not accord with local and national policies. The Secretary of State considers that the proposal would be in conflict with policy DM5 in the JDMPD, which seeks to protect the countryside from unsustainable development, and with policy DM27, which permits small scale housing developments in the country (IR468). He considers that this would be an adverse effect that carries moderate weight against the application proposal.

*Other matters*

29. For the reasons given by the Inspector, the Secretary of State agrees with her conclusion that the character and appearance of the Newmarket Conservation Area would be preserved and that there would be no conflict with Policy DM17 in the JDMPD (IR467).
30. For the reasons given by the Inspector at IR490, the Secretary of State considers that the economic benefits of the proposal carry moderate weight in favour of the proposal.

*Whether any conditions and obligations are necessary to make the development acceptable*

31. The Secretary of State has considered national policy as set out at paragraphs 203 to 206 of the Framework. He has also taken into account the Inspector's remarks at IR319-340 and IR470-471 and the schedule of conditions at Annex 3 of the IR. He agrees with the Inspector (IR471) that the proposed conditions are reasonable,

necessary and otherwise comply with the provisions of paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for refusing outline planning permission.

32. The Secretary of State has also given careful consideration to the Inspector's analysis at IR341–354 and at IR472–484. For the reasons given by the Inspector at IR472-484, he too concludes that the obligations provided are in accordance with Regulation 122 of the CIL Regulations and paragraph 204 of the Framework. He agrees with the Inspector that at the time of the inquiry the provisions of Regulation 123 were not offended. Given his reasons for refusing outline planning permission, which do not relate to the obligations and would not be overcome by them, he has not considered it necessary to seek an update from the Council on this point.

*Overall conclusions and planning balance*

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons given above, the Secretary of State concludes that the proposal is not in accordance with development plan Policies DM5, DM27, DM48, Vision 2 of the CS, Spatial Objective ECO 5 or CS1, and is not in accordance with the development plan as a whole. He has therefore gone on to consider whether material considerations indicate that this application should be determined otherwise than in accordance with the development plan.
34. The Secretary of State considers that the proposal is in accordance with the emerging development plan. However, the emerging plan carries little weight, and the Secretary of State considers that the proposal's accordance with the emerging plan carries little weight in the planning balance. The emerging Neighbourhood Plan carries very little weight, and the Secretary of State considers that the proposal's accordance with the draft objectives of the emerging Neighbourhood Plan carries very little weight in the planning balance.
35. He considers that the provision of market and affordable housing in this case carries substantial weight in favour of the development, and that the economic benefits of the development carry moderate weight in favour. The road improvements referred to in paragraph 18 above carry significant weight in favour of the proposal.
36. However, he considers that the threat to the horse racing industry carries substantial weight against the proposal. He further considers that the risks arising from increased traffic at the Rayes Lane horse crossing carry moderate weight. He considers that the loss of countryside and best and most versatile agricultural land also carries moderate weight against the proposal.
37. The Secretary of State agrees with the Inspector's conclusions at IR452 that there would not be a significant impact on nature conservation interests, and that there would be no significant impact on European sites, and that an appropriate assessment would not be required. He considers that these matters do not weigh against the scheme.
38. Overall, he concludes that there are no material considerations which indicate that he should determine the case other than in accordance with the development plan.



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**File Ref: APP/H3510/V/14/2222871**

**Land at Hatchwood Farm, Fordham Road, Newmarket, Suffolk**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 11 July 2014.
- The application is made by Lord Derby to Forest Heath District Council.
- The application Ref DC/13/0408/OUT is dated 2 October 2013.
- The development proposed is up to 400 dwellings plus associated open space (including areas of habitat enhancement) foul and surface water infrastructure, two accesses onto the A142, internal footpaths, cycle routes and estate roads.

**Summary of Recommendation: That planning permission be granted subject to the conditions in Annex Three.**

---

**PROCEDURAL MATTERS**

1. The application was made in outline form with all matters apart from access reserved for consideration at a later date. Minor changes were made to the highway layout and the open space distribution, removing reference to the provision of allotments within the site. A Design and Access Statement accompanied the application and the Land Use Plan shows the disposition of uses across the site, including roads, green spaces and housing (*Documents CD/AP/1; CD/AP/4; CD/AP/9; Plan A/2*).
2. The application was accompanied by an Environmental Report, a Flood Risk Assessment and a Transport Assessment. Forest Heath District Council's Screening Opinion was that the proposal was Environmental Impact Assessment (EIA) development. The Applicant disagreed with this response and requested a Screening Direction from the Secretary of State for Communities and Local Government (Secretary of State) who determined on 20 December 2013 that the proposal was not EIA development. Permission was refused by the High Court on 14 March 2014 for Save Historic Newmarket Ltd to bring proceedings against this decision to judicial review (*Documents CD/COP6; FHDC/2, Appendix 4*).
3. The application was called-in by the Secretary of State for his own determination on 11 July 2014 (*Document CD/O/11*). The reasons were as follows:
  - 3.1 The proposal may have significant long-term impact on economic growth and meeting housing needs.
  - 3.2 The proposal could have significant effects beyond its immediate locality.
  - 3.3 Any other matters the Inspector considers relevant.
4. A Pre-Inquiry meeting was held on 1 December 2014 where arrangements for the forthcoming Inquiry were discussed and the main areas to be covered by evidence were agreed. Forest Heath District Council (the Council) made clear that it did not object to the application and therefore would be playing a secondary part in the Inquiry. The main objector was the Newmarket Horsemen's Group (NHG) and they were given Rule 6 status and took a leading role in the Inquiry (*Document CD/O/12*).
5. In February 2015 the NHG raised the further issue of prematurity as an addendum to its Statement of Case. Whilst this was a late addition it was one

that the other parties were able to address without prejudice to their respective positions (*Document CD/SOC/4*).

6. The three main parties were able to reach agreement on a number of matters and submitted 8 Statements of Common Ground (SCG). These included an agreed position on housing land supply between the Council and Applicant; agreement on highways and transport matters between the Applicant and the Highways Agency as well as Suffolk County Council as Highway Authority (Highway Authority); agreement on certain hydrological and general matters between the Applicant and NHG and agreement on contributions between the Applicant and Suffolk County Council (*Documents CD/SCG/1-CD/SCG/7; ID/2*).
7. I undertook an accompanied site visit early in the morning of 10 April and was shown the horses crossing the town, the various training grounds and gallops, and the National Stud, amongst other things. There was a further accompanied site visit on 30 April to view the site and its surroundings. Earlier that morning I visited the town unaccompanied to observe traffic conditions in the morning peak both within the town centre and along Fordham Road, Snailwell Road and Bury Road. On the evening of 15 April I visited Tattersalls Bloodstock Auctioneers to observe for myself a sale of two year old horses.
8. A 1.5 hectare site adjacent to the eastern site boundary and within the control of the Applicant would be available for a new primary school should this be required by Suffolk County Council as Education Authority. This is considered later in the Report concerning how the educational needs of the development would be met. However, for the avoidance of doubt, such a proposal is not part of the present application and the land is not within the application site.

### **THE SITE AND SURROUNDINGS**

9. A comprehensive description of the site and its context is provided in Document *CD/SCG/1, Section 2*. There are useful maps of the site and its relationship to the surrounding highway network, the wider settlement and the various nature conservation sites at *Documents CD/OP/14, Tab 3; APP/2/3, Appendix A; FHDC/2/Appendices 1,2; CD/OP/14, Tab 17; ID/52; ID/53*. The horse walks, horse crossings, training stables, stud farms and training grounds are shown in *Documents APP/2/3, Appendix JK; NHG/6/2 Appendices 2, 9*. There are helpful photographs in the Landscape and Visual Impact Assessment at *Document CD/OP/14, Tab 27*. A context aerial photograph is at *Document CD/OP/14, Tab 9*.

*The main points are:*

10. The appeal site is on the northern side of Newmarket close to the junction of Fordham Road and the A14. The latter forms part of the Strategic Road Network. Cambridge is to the west and Bury St Edmunds to the east. Newmarket is within the south western corner of the district and due to the way that the boundary has been drawn it adjoins East Cambridgeshire District on its north, west and south sides. Snailwell Meadows is a Site of Special Scientific Interest (SSSI) on the north western side of Snailwell village. Further north, and about 2.6 km from the application site is Chippenham Fen, which is an SSSI and part of the Fenland Special Area of Conservation (SAC). Breckland Special Protection Area (SPA) is a large area of forest and heathland and at its nearest point is about 8 km to the north east of the appeal site.



11. The town centre is about 1.5 km to the south of the appeal site. Newmarket is the largest settlement in the district with a population of over 16,000. It has a good range of shops and services as well as various recreation and employment opportunities. The railway station is in the southern part of the town and includes services to Cambridge and from there to London Kings Cross. The northern part of the settlement extends to the A14 where there is a large residential estate known as Studlands Park. To the south of this is a superstore, which is currently being enlarged, as well as an extensive commercial area with various employment and industrial uses.
12. Newmarket is world famous for its horse racing industry. Training stables are to be found within and adjoining the town and are concentrated near to the two main training grounds to the east and west, known as Bury Side and Racecourse Side respectively. Many of the stud farms are located outside of the town and within surrounding villages such as Exning to the north of the A14. The appeal site is to the north west of Stanley House Stud, which is owned by the Applicant. The main training yards are to the south and east.
13. The appeal site itself is generally flat and comprises about 20 hectares of arable farmland. It is part of a larger agricultural holding and the farm house and main farm buildings are immediately to the south east. There is one open sided metal storage barn on the site itself. The southern boundary adjoins the tree lined access drive to the farm and at its entrance are several farm cottages. Along the Fordham Road (A142) frontage there is a wide band of mixed woodland planting. The northern boundary has no natural delineation but the agricultural land continues to the wooded boundary with the A14.

#### **PLANNING POLICY**

14. The development plan comprises the saved policies of the **Forest Heath Local Plan**, the **Forest Heath Core Strategy Development Plan Document** and the **Joint Development Management Policies Document**. Whilst all relevant policies have been taken into account, those that are considered the most pertinent to this appeal are set out below.
15. **The Forest Heath Local Plan (LP)** was adopted in 1995 (*Document CD/LP/1*). However following the adoption of the Joint Development Management Policies Document there is little policy provision remaining that is of relevance to this appeal.
16. **The Forest Heath Core Strategy (CS)** was adopted in May 2010 (*Document CD/LP/2*). However it was subsequently subject to a High Court Challenge and quashed by Order of the Court on 25 March 2011. This was because the Strategic Environmental Assessment had failed to properly explain the realistic alternatives to the strategic growth locations, including an urban extension for 1,200 dwellings to the north east of Newmarket, which included the application site. Accordingly all references to these residential growth areas in Policies CS 1, CS 7 and CS 13 were quashed along with Section 3.6 on housing provision.
  - 16.1 **Vision 1** refers to the whole district with development focused in the towns and key service centres, amongst other things. **Vision 2** addresses Newmarket as the largest town in the district and amongst other things seeks to preserve and enhance its position as the international home of horse racing. **Spatial Objective ECO 5** seeks to

### **Countryside and agricultural land**

468. The application proposal would result in the loss of about 20 ha of best and most versatile agricultural land. The site is outside the current settlement boundary and, notwithstanding that this is agreed by the parties to be out of date, the proposal would involve development in the countryside. Policy DM5 in the JDMPD seeks to protect the countryside from unsustainable development and lists a number of purposes which would be acceptable. Policy DM27 addresses housing in the countryside and permits small scale developments. Neither of these policies envisage housing development of the scale being currently proposed. The Framework also recognises the intrinsic character and beauty of the countryside and that the economic and other benefits of best and most versatile agricultural land should be recognised.
469. The site is well screened from public viewpoints by a thick belt of tree planting along the Fordham Road frontage. It is also difficult to see much of it from the A14 due to further green screening. In my judgement there would be an adverse effect although this would be relatively local in terms of its visual impact. Nevertheless the loss of countryside and agricultural land would not accord with the aforementioned local and national policies and would be an adverse factor that weighs against the application proposal [13; 304; 306; 468].

### **CONSIDERATION SEVEN: WHETHER ANY CONDITIONS AND OBLIGATIONS ARE NECESSARY TO MAKE THE DEVELOPMENT ACCEPTABLE**

#### **Conditions**

470. The planning conditions are set out in Annex Three. Justification has been provided in *Paragraphs 319-340* and there are also references to specific conditions, where relevant, in my Conclusions. The NHG is concerned about the timing of the improvement to the Rayes Lane crossing. The contribution of £60,000 is covenanted through the Section 106 Agreement. There is no reason to believe that Suffolk Council, as Highway Authority and a publicly accountable body, would act irresponsibly in bringing forward the improvements promptly, especially as they are in its Local Transport Plan. In any event the impact would relate to traffic generated by the development and this would not precede occupation. Condition 23 requires the mitigation to be in place before any of the dwellings are occupied and is important to ensure that the works in question are carried out expeditiously [205].
471. It is considered that the conditions are reasonable, necessary and otherwise comply with the provisions of Paragraph 206 of the Framework and the Planning Practice Guidance for the reasons given. I recommend that they are imposed if the Secretary of State decides to grant planning permission.

#### **Planning obligations**

472. There is a Section 106 Agreement, which includes a variety of provisions as set out in *Paragraphs 342-354* above. Some have been referred to in the previous sections of my Conclusions and are put forward to mitigate adverse impacts, meet the needs of the development and enable the scheme to go ahead. The Section 106 Agreement was discussed in detail at the Inquiry. The Secretary of State can be satisfied that the document is legally correct and fit for purpose.



**APPENDIX KCC9**  
**Warwick Decision**



Department for  
Communities and  
Local Government

Joanne Hedgley  
Pegasus Planning Group  
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Canwell  
SUTTON COLDFIELD  
West Midlands  
B75 5SH

Our Ref: APP/T3725/A/14/2229398

14 January 2016

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY GALLAGHER ESTATES LTD  
LAND SOUTH OF GALLOWES HILL/WEST OF EUROPA WAY, HEATHCOTE,  
WARWICK  
APPLICATION REF: W/14/0681**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI, who held a public local inquiry between 25 August and 3 September 2015 into your client's appeal against a decision of Warwick District Council to refuse outline planning permission for: residential development up to a maximum of 450 dwellings; provision of two points of access (one from Europa Way and one from Gallows Hill); comprehensive green infrastructure and open spaces including potential children's play space; potential footpaths and cycleways; foul and surface water drainage infrastructure and ground modelling, on land south of Gallows Hill/West of Europa Way, Heathcote, Warwick, in accordance with application number W/14/0681 dated 1 May 2014.
2. The appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990, because the scheme involves a proposal for residential development of over 150 units, or is on a site of over 5 hectares, which would impact significantly on the objective of the Government to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

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*Precedent and prematurity*

25. For the reasons at IR444 - 447, the Secretary of State agrees with the Inspector that considerations of precedent do not warrant dismissal of the appeal (IR448). Likewise, for the reasons at IR449 - 450 the Secretary of State agrees that, subject to the other identified issues and the outcome of the planning balance, the appeal should not be dismissed on grounds of prematurity.

*Agricultural land quality*

26. The Secretary of State agrees with the Inspector's analysis with regard the use of agricultural land at IR452. He agrees that there is no evidence that the housing needs of the Housing Market Area can be met by avoiding development of such best and most versatile land and that, in spite of a conflict with LP Policy DP3(g), agricultural land quality is not a reason for refusal of planning application. Nevertheless, having considered paragraph 112 of the Framework, he places moderate weight on the loss of best and most versatile agricultural land in this case.

*Transport and traffic impacts*

27. The Secretary of State agrees with the Inspector's assessment of transport and traffic impacts at IR453 - 457. He agrees that there is no reason for refusal relating to transport or traffic issues (IR453). In reaching this conclusion the Secretary of State notes the Inspector's point at IR456 that the cumulative impacts of other committed developments in the area were included in the traffic modelling but that this did not include the traffic impact of The Asps development. However, in his separate decision on The Asps appeal the Secretary of State noted that the original traffic assessments for that development included the potential traffic data for other proposed developments in their calculations, which included the site south of Gallows Hill.

*Air quality*

28. The Secretary of State agrees with the Inspector's assessment regarding air quality in Warwick town centre at IR458. He agrees that the additional traffic that the proposal would generate would have only a negligible impact on emissions and air quality.

*Tourism*

29. For the reasons at IR459 - 460, the Secretary of State agrees with the Inspector that it has not been demonstrated that the marginal increase in traffic movements due to this development, or its other impacts, would have any significant effect on tourist numbers.

*Benefits*

30. The Secretary of State agrees with the Inspector's assessment of the benefits of the appeal scheme at IR468 - 470. He agrees that the significant shortfall in the 5 year supply of housing land should be accorded considerable weight, and that the supply of up to 450 more dwellings including 40% affordable units to address an acknowledged need for market and affordable housing would have significant economic and social benefits and contribute to the Framework aim to boost significantly the supply of housing. He attaches considerable weight to these benefits.

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## **Report to the Secretary of State for Communities and Local Government**

**by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 26 October 2015**

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### **Town and Country Planning Act 1990 Warwick District Council Appeal by Gallagher Estates Ltd**

Inquiry held on 25-27 August 2015 & 2-3 September. Closed in writing on 16 September 2015.  
Site Visit held on 1 September 2015

Land South of Gallows Hill/West of Europa Way, Heathcote, Warwick

File Ref: APP/T3725/A/14/2229398

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**File Ref: APP/T3725/A/14/2229398****Land South of Gallows Hill/West of Europa Way, Heathcote, Warwick**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gallagher Estates Ltd against the decision of Warwick District Council.
- The application Ref W/14/0681, dated 1 May 2014, was refused by notice dated 31 July 2014.
- The development proposed is a residential development up to a maximum of 450 dwellings; provision of two points of access (one from Europa Way and one from Gallows Hill); comprehensive green infrastructure and open spaces including potential children's play space; potential footpaths and cycleways; foul and surface water drainage infrastructure and ground modelling.

**Summary of Recommendation: That the appeal be allowed.**

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there would be a negligible impact on the AQMAs associated with traffic from the development. It also refers to mitigation measures.

5. The regulatory requirements have been met and this environmental information has been taken into account.

#### **THE SITE AND SURROUNDINGS**

6. There is a full description of the site and its surroundings in the Planning Statement of Common Ground (Document AD2) that was agreed between the LPA and the Appellant.

##### *The appeal site*

7. The appeal site of about 21.8ha is in the main a single large arable field traversed by a low voltage electricity line. It is mostly level but falls gently to the south towards adjacent woodland known as Turnbull's Gardens and more steeply towards the south east corner where there is a minor watercourse. Between that watercourse and another watercourse further south is a rectangular ridged area of pasture that is included in the appeal site and which would remain open as part of the proposed open space.
8. The site is mainly Grade 2 (best and most versatile) agricultural land. A characteristic which it shares with much of the agricultural land around the edge of Warwick and Leamington.
9. The appeal site is bounded to the north by a hedgerow along the Gallows Hill frontage. To the east along the frontage to Europa Way the appeal site is bounded by a hedgerow with trees. They were planted when that 2-lane road was built in the 1980s and they serve to screen or filter views to and from the road.
10. There is a useful topographical LiDAR map of the area at Stoten Appendix A1 Figure 4 (Document GS2). There is a similar contour map at Figure 5.4 of the Environmental Statement.
11. There are landscape and visual analysis context plans at Figures 5.5 and 5.6 of the ES (Volume 1). These are followed by photographs from 24 viewpoints (VP) which were taken in winter. The VP locations are on Figure 5.1 which also illustrates local rights of way. Key VPs referred to in the Conclusions are VP24, (View from Gallows Hill - looking east near the junction with Banbury Road), VP23 (View from a gap in the roadside vegetation on Banbury Road), VP10 & VP11 (Views NE from public footpath west of A452 Europa Way), VP20 (View south from Gallows Hill) and VP21 (View from Europa Way looking west).
12. The viewpoint photographs are followed by illustrative material including the site's relationship to the now consented Lower Heathcote development to the east.
13. The inquiry proofs and appendices contain other photographs taken from different locations and at different times of year. In particular the A3 document JEP-9 includes visualisations from VP4 (the same position as ES VP24) which include photographs showing the recent tree planting on the 'Hallam' land to the west of the appeal site and also indicate how the development would look as the intended screen planting on its western edge matures. The visualisations also



not at an advanced stage and (b) above should not apply. In relation to (a) the LPA has acknowledged that additional development land needs to be identified [139]. Whilst no specific alternative locations have been identified there are obvious constraints such as the Green Belt that covers 80% of the District including land north and west of the Warwick/Leamington built up area [53]. Considerations of prematurity have not prevented the Council from granting planning permission on many of the proposed Local Plan allocation sites including large developments immediately adjoining the appeal site [77]. The appeal development would not be a significant departure from that strategy and may reduce the need to seek sites in the Green Belt.

451. Therefore, and subject to the other identified issues and the outcome of the planning balance, it is not considered that the appeal should be dismissed on the grounds of prematurity.

### **Other Matters**

#### ***Agricultural land quality***

452. Interested persons point out that the appeal site is mainly Grade 2 'best and most versatile agricultural land' [157, 162] which the Framework paragraph 112 identifies as having economic and other benefits. The same paragraph seeks that where significant development of agricultural land is necessary, LPAs should seek to use poorer quality land in preference to that of higher quality [64]. In this case the LPA has already identified the need to release agricultural land for development including the adjoining sites to the east and north. Warwick and Leamington Spa are the main urban settlements in the District outside the Green Belt. It is not disputed that most land around the edges of both towns qualifies as best and most versatile land and there is no evidence that the housing needs of the HMA can be met only by avoiding development of such land. Neither, and in spite of a literal conflict with LP Policy DP3(g), was agricultural land quality a reason for refusal of the planning application.

#### ***Transport and traffic impacts***

453. There is no reason for refusal relating to transport or traffic issues and no objection from the Highway Authority. No conflict with adopted LP policies has been claimed by the LPA. The Highway Authority has concluded a Highways and Transportation Statement of Common Ground with the Appellant that agrees improvements to the road network adjoining the site, improvements to bus services, and contributions to improve off-site pedestrian and cycle access [86-87]. The County Highway Authority delegated to its officers the response to the consultation on the planning application. If some elected County Council members do not agree with their professional officers that is an internal matter for the County Highway Authority [152, 155].
454. Objections from other interested persons mainly focus on: the traffic impact on Warwick town centre; sustainability; and cumulative impacts with other developments that have already been consented or which are proposed for allocation in the ELP [152, 153, 155, 156]. In relation to Warwick town centre they refer to existing congestion issues, especially at peak times. The Appellant has modelled the traffic impact in the town centre using modelling information agreed with the County Highway Authority. This concluded that at peak times the development would add 1 vehicle every 1 minute 20 seconds to the traffic



the housing supply policies are currently unsound. The other ELP policies have yet to be examined and are subject to representations such that they may change prior to the adoption of the ELP.

474. The public benefits of the development identified above therefore need to be weighed with the identified harm for the purposes of paragraphs 14 and 134 of the Framework. It needs to be established whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. If they would not then this would mean that this is a sustainable development to which the presumption in favour of sustainable development would apply.

475. The identified harm to heritage assets is limited, less than substantial, harm to the setting and significance of the registered Castle Park. This arises from the development of some of the open agricultural land that had a previous association with the Park and which would be visible from some of the same positions as would external views of the Park. As the Park is part of the Warwick Conservation Area there would be similar limited harm to the setting significance and appearance of the Conservation Area in these same external views. The Castle is further from the site and the impact on the setting and significance of the Castle and other designated heritage assets is assessed as negligible.

476. There would be some harm from the change to the landscape character of the appeal site as part of the Feldon Parklands landscape character area. However on the appeal site that landscape has already been degraded by the loss of internal hedgerows, and its character is also now heavily influenced by existing and committed urban development of adjacent land. That also already affects visual amenity in views from the adjacent roads and a public footpath. There would be some slight adverse harm to visual amenity for those using Banbury Road although but that road would still adjoin open agricultural land and the generally glimpsed and distant views of the development would reduce as new planting matures.

477. In relation to the other matters the loss of best and most versatile land is likely to be unavoidable if the identified housing needs of Warwick District the wider Housing Market Area are to be addressed. The traffic impacts and associated air quality impacts are considered to be negligible.

#### **Overall Conclusions and Recommendation**

478. The overall conclusion is that the development would be in contravention of the adopted development plan but that there are important material considerations why a decision should be taken otherwise than in accordance with the development plan. In particular relevant policies are out of date and inconsistent with more recent national policy. The limited and less than substantial harm to the setting and significance of heritage assets and the limited harm to landscape character and visual amenity does not significantly and demonstrably outweigh the shortfall in housing supply against identified needs. Considerable weight should be accorded to the benefit of contributing a significant amount of housing to address these needs including the 40% provision of affordable housing. This is therefore a sustainable development in the terms of the Framework and the Framework's presumption in favour of such development should apply here.



**APPENDIX KCC10**  
**East Staffordshire Decision**



Department for  
Communities and  
Local Government

Gladman Developments Ltd  
Gladman House  
Alexandria Way  
Congleton  
Cheshire  
CW12 1LB

Our Ref: APP/B3410/W/15/3134848

18 November 2016

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY GLADMAN DEVELOPMENTS LIMITED  
LAND OFF CRAYTHORNE ROAD, STRETTON, STAFFORDSHIRE  
APPLICATION REF: P/2014/00818**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Karen L Ridge LLB (Hons) MTPL, who held a public local inquiry on 26-28 April and 4, 5, 10, 16 and 23 May 2016 into your client's appeal against the decision of East Staffordshire Borough Council to refuse planning permission for your client's application for outline planning permission for a mixed use development scheme comprising of up to 385 dwellings, provision of 1.69 hectares of land for a single form entry primary school and associated infrastructure, including details of access and all other matters reserved, in accordance with application ref: P/2014/00818, dated 25 June 2014.
2. On 28 October 2015, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 150 units on a site over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal should be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to dismiss the appeal and refuse outline planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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### **Matters arising since the close of the inquiry**

5. On 31 October 2016, the Council wrote to the Secretary of State regarding the Red House Farm court hearing (East Staffordshire BC v SSCLG & Barwood Strategic Land II LLP & Others, referred to at IR12.23), which took place in the High Court on 28 October 2016. Judgment has not yet been handed down on that case, but the Secretary of State does not consider that it is necessary to delay issuing the current decision on that basis.

### **Policy and statutory considerations**

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan consists of the East Staffordshire Local Plan 2012-2031 (ESLP) which was adopted on 15 October 2015. It includes the Stretton Neighbourhood Plan (SNP) which was made on 1 February 2016. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR4.2-4.4.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

### **Main issues**

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR10.2.

#### *Conformity with the development plan*

10. For the reasons set out at IR10.4-10.19, the Secretary of State agrees with the Inspector at IR10.19 that the proposal is contrary to ESLP policies SP8, SP2, SP4 and one element of SP1, and is also contrary to SNP policy S1. He further agrees that policies SP8, SP2, SP4 and S1 are key strategic policies sitting at the heart of each of the development plans and are tasked with directing development to appropriate locations. Having regard to the nature and scale of the proposal and the strategic nature of the development plan policies breached, he agrees with the Inspector at IR10.20 that the proposal is not in accordance with the development plan as a whole.

#### *The five-year housing land supply*

11. The Secretary of State has carefully considered whether the Council can demonstrate a five-year housing land supply. He notes that for the reasons given at IR10.23-10.25, parties are agreed that there is a five-year requirement of 3,574 houses when the 20% buffer is added, with any under-delivery still to be factored in (IR10.25).
12. For the reasons set out at IR10.27-10.35, he agrees with the Inspector at IR10.34 that the method used by the Council to count completions is sufficiently precise and robust and that the Council have provided a clear explanation as to how the figures are arrived at. He notes that the method used by the Council was the same method as that used in calculating completions before the Local Plan Inspector, and agrees with the Inspector at IR10.35 that there is no reasonable basis for changing the method of counting



completions at this point in time. He therefore agrees with the Inspector at IR10.36 in preferring the Council's figures on completions over those of the Appellant. He agrees that the Council's housing requirement figure is 4,235 in terms of the five-year housing land supply, equating to an annual requirement of 847 dwellings (IR10.36 and 10.84).

13. The Secretary of State agrees with the Inspector's analysis of the five-year housing land supply as set out at IR10.37-10.83. On 10 November 2016 the Secretary of State granted permission for the development on College Fields, Rolleston (IR10.82-10.83). He further agrees with the Inspector's conclusion at IR10.85 that there is a current housing land supply of some 5.5 years. Like the Inspector, the matters raised at IR10.86-10.89 do not change his view that the Council has a five-year housing land supply.

*The loss of best and most versatile (BMV) agricultural land*

14. Having considered paragraph 112 of the Framework, the Secretary of State considers that the loss of 23 hectares of BMV land constitutes a significant development, but that at present the development of this land is not demonstrated to be necessary (IR11.4-11.10). He agrees with the Inspector at IR11.10 that the development is contrary to ESLP policy SP1. The Secretary of State considers that moderate weight should be attached to the harm caused by the loss of BMV land in the circumstances of this case.

*Educational provision*

15. For the reasons given at IR11.16-11.27, the Secretary of State agrees with the Inspector at IR11.27 that the adjusted forecast need figure of 11.5 form entry (FE) is to be preferred. He has taken into account the Inspector's analysis at IR11.28-11.30 of the amount of provision already made or planned. He notes that the planning permission granted at Red House Farm has been challenged, and hence there is some uncertainty about the contribution towards the 1FE school proposed at Henhurst Ridge which would create a 2FE school. He therefore concludes that the planned and additional provision to be made in the plan period may be somewhat lower than the figure of 9.78FE which the Inspector cites in IR11.30. He agrees with the Inspector's conclusion at IR11.31 that during the plan period there is likely to be a need for additional primary school provision over and above that which is currently programmed, and that any additional provision which emanates from the appeal proposal, over and above the 0.5FE necessary to meet the requirements of the development itself, would go some way to meeting the deficit in numerical terms.
16. The Inspector's assessment of the location of the school is set out at IR11.32-11.36. The Secretary of State has taken into account the Inspector's view at IR11.34 that other sites could have been discounted which, had different parameters been applied, might be suitable for future provision, and which may also be on land that is not BMV land. Nonetheless, for the reasons given in IR11.32 and IR11.35, he agrees with the Inspector at IR11.36 that irrespective of any comparative exercise, the school site would be in a relatively accessible location on a site which is located in an area of growth between two strategic allocations. The Secretary of State has considered the likelihood of delivery of the school (IR11.37-11.40). He agrees with the Inspector at IR11.40 that following any transfer, planning permission would need to be obtained, and that it is only possible to acknowledge that there does not appear to be any unsurmountable objections, in planning terms, to the delivery of a 1FE primary school. He further agrees that there is no guarantee that an extension of a 1FE primary school to a 2FE school would be acceptable in planning terms (IR11.38).



**File Ref: APP/B3410/W/15/3134848**  
**Land off Craythorne Road, Stretton, Staffordshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Limited against the decision of East Staffordshire Borough Council.
- The application Ref. P/2014/00818, dated 25 June 2014, was refused by notice dated 23 July 2015.
- The development proposed is an *'Outline application for a mixed use development scheme comprising of up to 385 dwellings, provision of 1.69 hectares of land for a single form entry primary school and associated infrastructure, including details of access and all other matters reserved'*.

**Summary of Recommendation: The appeal be dismissed**

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**Background and Procedural Matters**

- 1.1 The Inquiry sat on 26, 27, 28 April 2016 and 4, 5, 10, 16 and 23 May 2016 with an accompanied inspection of the site and its surroundings taking place on 23 May 2016. Unaccompanied inspections of various other sites took place whilst the Inquiry was in progress.
- 1.2 The description of development set out above differs from that on the application form. It is taken from the refusal notice and was agreed between the parties. The agreed description is *'Outline application for a mixed use development comprising of up to 385 dwellings, provision of 1.69 ha of land for a single form entry primary school and associated infrastructure including details of access with all other matters reserved'*<sup>1</sup>.
- 1.3 This appeal was recovered on 28 October 2015 under section 79 and paragraph 3 of Schedule 6 of The Town and Country Planning Act 1990 by the Secretary of State because the appeal involves a proposal for residential development of over 150 units on a site over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities<sup>2</sup>.
- 1.4 A local group known as 'Save our Stretton' (SOS) appeared at the Inquiry as a Rule 6 party. This group is made up of local residents who wished to object to the proposal.
- 1.5 A Planning Statement of Common Ground (SCG) was agreed between the Council and the Appellant. A series of position statements<sup>3</sup> were agreed between the Appellant and other statutory consultees. These included a Highways position statement with Highways England, a Highways position statement with Staffordshire County Council (SCC), as Highways Authority, and two education position statements with Staffordshire County Council, as local education authority. SOS were not involved in discussions with regard to any of the statements and are not a party to any of them.

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<sup>1</sup> This is the description used on the Council's decision notice (CD5.1) and it differs from the description on the application form.

<sup>2</sup> Recovery letter dated 28 October 2015.

<sup>3</sup> Whilst these are styled as statements of common ground they are not made between the main parties to the appeal and therefore it was agreed that they are more properly described as position statements.

- 1.6 A draft Unilateral Undertaking (the UU) made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) was placed before the Inquiry. Discussions in relation to the mechanics of the UU were ongoing throughout the Inquiry. At the end of the Inquiry the Appellant requested and was granted a further period to make certain agreed amendments to the UU and to have it executed. The executed UU has been received<sup>4</sup> and shall be considered in this report.
- 1.7 The UU makes promises in relation to the delivery of affordable housing, the payment of primary and secondary education contributions, a transport strategy contribution, a refuse contribution and the transfer of 1.6 hectares of land for a school site, as well as securing a Travel Plan and open space provision.
- 1.8 The Appellant does not dispute the necessity for the contributions but there remains one outstanding dispute about the drafting of the UU in terms of the release of individual plot owners from the covenants. I shall return to this later.
- 1.9 On the 11 May 2016 the Court of Appeal issued judgment<sup>5</sup> on the Secretary of State's appeal against a previous High Court judgment. This earlier judgment related to a challenge to the Secretary of State's Written Ministerial Statement of 28 November 2014 and his subsequent alterations to the Planning Practice Guidance (PPG) on planning obligations for affordable housing and social infrastructure contributions on some sites.
- 1.10 The Court of Appeal upheld the Secretary of State's appeal on all grounds and on 19 May 2016 new paragraphs<sup>6</sup> were added to the PPG reiterating the specific circumstances where the aforementioned contributions should not be sought. This change came about before the final day of the Inquiry but after oral evidence had been heard. It does not directly affect any of the issues in this case and touches on a peripheral finding in one very minor respect. It may affect the deliverability of one small site<sup>7</sup> of 10 units used to make up the 5 year housing land supply (5 YHLS). Given the nature and scale of the dispute between the main parties and the very minor contribution of this site I did not consider it necessary to refer back to the parties for comments but I shall refer to the change in my deliberations.

### **The Site and Surroundings**

- 2.1 The site location plan is at CD1.2. The revised Design and Access Statement (CD2.2) and the Landscape and Visual Impact Assessment (LVIA) (CD1.5) each provide some sense of the context in which the site is located.
- 2.2 The appeal site extends to 23.36 hectares and lies adjacent to housing on Craythorne Road in the village of Stretton which sits within the Trent River Valley. The surrounding landscape beyond Stretton is predominantly agricultural with Rolleston on Dove situated to the north and Burton upon Trent located to the south.

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<sup>4</sup> GDL28- certified copy UU dated 10 June 2016

<sup>5</sup> SSCLG v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

<sup>6</sup> Paragraph: 031 Reference ID: 23b-031-20160519

<sup>7</sup> Demontfort Way

- 2.3 The site is mostly agricultural land divided into three fields by existing vegetation. It comprises mostly grade 2 best and most versatile land.<sup>8</sup> A small area of the site, in the south-western corner, previously formed part of the former Craythorne Golf course. The site is well contained with Craythorne Road to the east and north, existing residential properties to the south and mature hedgerows to the west.

### The Proposal and Planning History

- 3.1 The appeal relates to an outline application with all matters, other than access, reserved for future consideration. The outline planning application which led to this appeal was originally described as '*residential development of the site to provide up to 425 dwellings and associated infrastructure*'.<sup>9</sup> Following negotiations between the parties the application was revised to include a parcel of land to be designated for an educational use which was to be transferred to the County Council for the purposes of provision of a primary school. The number of dwellings was adjusted to 'up to 385 dwellings'. It is this revised application which was refused planning permission by the Council on 23 July 2015<sup>10</sup>. I am satisfied that the revised application was subject to proper consultation procedures.
- 3.2 The application was supported by a Development Framework Plan, Design and Access Statement, Landscape and Visual Impact Assessment, Transport Assessment and Travel Plan, Ecological Appraisal, Arboricultural Assessment, Flood Risk Assessment, Noise Assessment, Archaeological Assessment, Foul Drainage Analysis and an Air Quality Assessment<sup>11</sup>.
- 3.3 During the Inquiry there were discussions between the Council, the Appellant and the Inspector as to the nature of the planning permission sought. It was agreed by the Council and Appellant that the application was a mixed use development incorporating a residential use and the change of use of a parcel of land for educational purposes. It was further agreed that any permission resulting from this appeal would not result in an outline planning permission for a primary school building which would have to be the subject of a further application.
- 3.4 The revised proposal is represented by details on the site location plan drawing 2012-016-005 (dated 29.11.13)<sup>12</sup> and the site access arrangements plan<sup>13</sup> 1324/30 revision C dated March 2014. The current proposal involves up to 385 dwellings of which 33% would be affordable homes with a proportion of the affordable homes to be provided off-site through a financial contribution. The proposal also includes highways and associated infrastructure works, with agreed off-site highway works intended to mitigate the effects of the development. In addition, 6.36 hectares of public open space would be provided on the site. A network of attenuation basins

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<sup>8</sup> Agricultural Land Quality Report of Land Research Associates [CD8.1] and proof of evidence of Mr Kernon

<sup>9</sup> Core document CD 1.1

<sup>10</sup> Notice of refusal Core document CD 5.1

<sup>11</sup> Core documents CD 1.3 through to CD 1.15

<sup>12</sup> Core document CD 1.2

<sup>13</sup> Core document CD 8.4.6

reasons advanced for the policies within the plan being out-of-date. I shall return to this matter in my conclusions.<sup>[7.28]</sup>

*The Loss of Best and Most Versatile Agricultural Land*

- 11.1 The total land area occupied by the appeal site is some 22 hectares. The site falls within an area depicted on the provisional MAFF Agricultural Land Classification (ALC) sheets as being of grade 2 quality.<sup>172</sup> The only detailed agricultural land quality data available is in relation to a site known as Upper Outwoods Farm. This land has been subject to a planning application accompanied by a detailed agricultural land quality assessment. The assessment sets out the proportions of the site deemed to be BMV land<sup>173</sup> and there is a clear correlation between the assessment and the indicative grading on the ALC maps. This provides some degree of confidence in the ALC maps.
- 11.2 Following the Council's determination<sup>174</sup> the Appellant has produced two maps which distinguish between areas of grade 2 and sub-grades 3a and 3b soils on the appeal site. These maps are not supported by other empirical data indicating soil sampling, although Mrs Hodson confirmed in her oral evidence that they are based on trial hole borings. In any event they depict a large swathe of grade 2 land in the centre of the site surrounded overwhelmingly by soils of sub-grade 3a.
- 11.3 It is accepted that the proposal would result in the irreversible loss of this BMV and as such it would be contrary to 1 of the 15 criteria in ESLP SP1. In addition SP8, responsible for controlling development outside settlement boundaries sets out a requirement to have regard to the need to maintain land of high agricultural value for food production.<sup>[6.22, 6.23]</sup>
- 11.4 The Framework also requires that the economic and other benefits of BMV land are taken into account in decision-making. By virtue of the land area involved and the scale of housing proposed, I consider that the loss of 23 hectares of BMV constitutes a significant development.<sup>175</sup> In such circumstances the Framework directs that where development of such land is demonstrated to be necessary, planning authorities should seek to use areas of poorer quality land in preference.
- 11.5 An assessment as to the weight to be given to this matter depends on a number of other contextual factors. I have already made a finding that the Council has a 5 YHLS. Consequently at this moment in time the requirement to have an appropriate supply of land available for housing does not translate to a pressing need to release additional sites<sup>176</sup>.
- 11.6 The Appellant points to other sites containing BMV land which have been allocated as development sites<sup>177</sup> and to other sites not allocated which were allowed on appeal. However the allocated sites came about in circumstances where the Council was seeking to ensure a 5 YHLS and to make strategic

<sup>172</sup> Mr Kernon proof of evidence §1.4

<sup>173</sup> Some 18.2%, Mr Kernon Appendix KCC5

<sup>174</sup> CD12.14

<sup>175</sup> This conclusion accords with the views of Natural England in its consultation response CD3.2

<sup>176</sup> Accepted by Mrs Hodson in cross-examination

<sup>177</sup> Sites at Branston Locks and Glenville Farm, ESBC.14 and ESBC.15

allocations. Other appeal sites will have been decided on their particular merits having regard to a series of other material considerations. I also note that the SHLAA did not refer to the existence as BMV land as a barrier to development on the appeal site. However these matters do not negate the policy requirements to have regard to the question of BMV when assessing the suitability of the current proposal.<sup>[6.24, 6.25]</sup>

- 11.7 It is also useful to look at the relative rarity of the resource when assessing what its loss would mean. The Appellant's Agricultural Land Quality report<sup>178</sup> appends a map showing the predicted extent of BMV land in the Burton upon Trent area. It concludes that the agricultural quality of the appeal site is likely to be typical of much of the land around Burton upon Trent<sup>179</sup>. However that map depicts a swathe of BMV land running from the north-east corner of the administrative district to the south west. It is notable that a significant proportion of the land depicted as BMV in that map extract has already been developed. By contrast a large proportion of the agricultural/greenfield land to the west of the appeal site is not indicated as BMV land and has not been developed. I note that some of that land lies in the floodplain or comprises natural forest which would preclude development. Having regard to all of these matters and the indicative maps I accept Mr Kernon's assessment that the majority of directions in which expansion could occur is likely to be on land which is not predicted to be of BMV quality.<sup>[7.31-7.32]</sup>
- 11.8 A table produced by Mr Kernon provides details of the relative proportions of different grades of agricultural land in East Staffordshire, Staffordshire and England.<sup>180</sup> Interpreting the data is somewhat difficult because the grade 3 category includes both grade 3(a) BMV land and grade 3(b) non-BMV land. It is however fair to say that in East Staffordshire grade 2 BMV land is a relatively scarce resource at 2.9%. It is more common across Staffordshire at 11% and more common across England as a whole where some 20% of land is grade 1 or 2.
- 11.9 Finally the Appellant points to the fact that the appeal site is 'enclosed' in that it is surrounded by development and in multiple ownerships. However, it has a field access and is of a significant size such that its location would not preclude its use for arable purposes. Many agricultural land-holdings contain different parcels of land separated from the main farm enterprise and comprised of land in different ownerships. I do not see these matters acting as a barrier to an agricultural use.<sup>[6.25]</sup>
- 11.10 In conclusion, I am satisfied that BMV agricultural land is a reasonably scarce resource in East Staffordshire by virtue of the proportion of BMV in the district and because of the amount of BMV which already appears to be in non-agricultural use. It has not been demonstrated that the development is necessary. As such the development is contrary to paragraph 112 of the Framework, as well as ESLP policy SP1. Having regard to all of the above matters I conclude that some weight should be attached to the harm caused by the loss of BMV land.

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<sup>178</sup> CD 8.1

<sup>179</sup> Ibid §3.1

<sup>180</sup> ESBC.5

**APPENDIX KCC11**  
**Eastleigh Decision**





Department for  
Communities and  
Local Government

Gemma Care  
Barton Willmore  
The Blade  
Abbey Square  
Reading RG1 3BE

Our Ref: APP/W1715/A/14/2228566  
Your Ref: 21288/A3/MU/RS/dw

Date: 9 November 2016

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY HALLAM LAND MANAGEMENT LTD, LAND WEST OF HAMBLE  
LANE, HAMBLE, HAMPSHIRE SO31 4BT  
APPLICATION REF: O/13/73479**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Chase MCD, DipArch, RIBA, MRTPI, who held a public local inquiry on 23-30 June 2015 into your client's appeal against the decision of Eastleigh District Council to refuse outline planning permission for up to 225 residential units plus a 60 bed care home and 40 extra care units, along with the provision of public open space and woodland, improvements to Hamble Station including new car parking, station kiosk/farm shop/café and a public transport interchange with taxi and drop off facilities along with all associated landscaping and access, in accordance with application number O/13/73479, dated 24 October 2013.
2. On 24 June 2015, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 150 units or on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to dismiss your client's appeal. A copy of the Inspector's report (IR) is

Department for Communities and Local Government  
Phil Barber, Decision Officer  
Planning Casework  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

Tel: 0303 44 42853  
Email: PCC@communities.gsi.gov.uk

#### *Other matters*

22. The Secretary of State notes that local residents are concerned about the proposal exacerbating the high traffic levels and periods of congestion on Hamble Lane (IR113). However, there is overall agreement by the parties that, subject to a range of off-site highway improvements and adoption of a Travel Plan, the impact of the development could be adequately mitigated, as confirmed in the Transport Statement of Common Ground.
23. Similarly, the Secretary of State finds no reason to consider that the range of obligations within the Section 106 Agreement would not adequately overcome any shortfall in the local infrastructure, nor that matters such as the impact on habitats, and the risk of flooding, could not be resolved by the use of conditions (IR114). He notes too that issues of design and local residential amenity would form the subject of reserved matters decisions. Furthermore, the Council raised no objection on the basis of harm to the setting of Listed Buildings or other heritage assets.

#### *Loss of Agricultural land*

24. The Secretary of State notes that the site is largely composed of Grade 2 and 3a agricultural land, although only half the site would be developed. However, like the Inspector (IR115), he considers that because of the nature of the proposals, it is unlikely that the retained open space would ever be suitable for arable farming. The Secretary of State notes that the Inspector considers it is not possible to give this loss substantial weight. Whilst the Secretary of State considers that it would not be appropriate to give this loss substantial weight, having considered paragraph 112 of the Framework and the large loss of agricultural land, the Secretary of State attaches moderate weight to the loss of "best and most versatile" agricultural land.

#### *Sustainability*

25. In terms of sustainability, the Secretary of State agrees with the Inspector's conclusion (IR116) that, when assessed against the policies in the Framework taken as a whole, the supply of market and affordable housing, along with care facilities, would make a significant contribution to meeting the social role of sustainability, complemented by the provision of public open space (although he acknowledges the latter is at the expense of the loss of the rural character of the public footpath crossing the site). Furthermore, he agrees that the additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall. In addition, he recognises, like the Inspector, the environmental and community benefits arising out of the station improvements identified at paragraphs 20 - 21 above. For the reasons given by the Inspector at IR117, the Secretary of State concludes that, on balance, this is a reasonably sustainable location in terms of accessibility.

#### **Planning conditions**

26. The Secretary of State has given consideration to the Inspector's analysis at IR77- 80, the recommended conditions set out at the end of the IR and the

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# **Report to the Secretary of State for Communities and Local Government**

**by John Chase MCD DipArch RIBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 26 August 2015**

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**TOWN AND COUNTRY PLANNING ACT 1990**

**EASTLEIGH BOROUGH COUNCIL**

**APPEAL BY**

**HALLAM LAND MANAGEMENT LTD**

Inquiry held on 23 to 30 June 2015

Land West of Hamble Lane, Hamble, Hampshire, SO31 4BT

File Ref: APP/W1715/A/14/2228566

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**File Ref: APP/W1715/A/14/2228566**

**Land West of Hamble Lane, Hamble, Hampshire, SO31 4BT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Hallam Land Management Ltd against the decision of Eastleigh Borough Council.
- The application Ref O/13/73479, dated 24 October 2013, was refused by notice dated 17 July 2014.
- The development proposed is up to 225 residential units plus a 60 bed care home and 40 extra care units, along with the provision of public open space and woodland, improvements to Hamble Station including new car parking, station kiosk/farm shop/café and a public transport interchange with taxi and drop off facilities along with all associated landscaping and access.

**Summary of Recommendation: That the Appeal be Dismissed**

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**Procedural Matters**

1. Document references (in bold italic) relate to the schedule at Annex 2.
2. The planning application was made in outline, with all matters reserved except access. It was accompanied by a range of reports and illustrative plans, identified as 'application documents' in Annex 2.
3. The Council refused the planning application on the grounds that it would 1) be a piecemeal form of development which would have an urbanising impact on land outside a settlement and would diminish a Local Gap, 2) harm road safety and the operation of the transport network, 3) lead to the sterilization of mineral resources, 4) cause the loss of Grade 2 and 3a agricultural land, 5) have a potentially adverse impact on dormice, 6) fail to secure affordable housing, 7) create pressure on existing facilities and infrastructure without adequate mitigation, and 8) result in a recreational impact on the Solent and Southampton Water Special Protection Area. The decision notice is at **CD114**.
4. Following discussions between the main parties, and the submission of further information, it was agreed that reasons for refusal 2, 3, 5, 6, 7 and 8 could be adequately resolved by provisions in a planning agreement or by planning conditions. A completed agreement under Section 106 of the Town and Country Planning Act 1990 is contained at **A012**, and recommended planning conditions are at Annex 3. Reasons 1 and 4 remain outstanding.
5. The appellants prepared an Environmental Statement (separately bound with appendices), in accordance with the EIA Regulations. The Planning Inspectorate Adequacy Check against the requirements of Schedule 4 of the Regulations (**APP005**) found the Statement to be satisfactory. The environmental impact of the development is considered in this report.
6. The appeal was recovered by the Secretary of State because it involves proposals for residential development of over 150 units or on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.
7. The Inquiry took place on 23, 24, 25 and 30 June 2015, with the site visit on 26 June.

and investment arising out of the care homes and construction programme. [39, 59, 63]

#### *Other Matters*

113. Hamble Lane is a relatively narrow road, with a number of junctions, which experiences high traffic levels and periods of congestion. There is a concern on the part of local residents that a development of the scale of the appeal proposal would exacerbate these problems. However, the appellants have prepared a comprehensive Transport Assessment (**CD118**) which has formed the basis of discussions with the Highway Authority, and overall agreement that, subject to a range of off-site highway improvements and adoption of a Travel Plan, the impact of the development could be adequately mitigated, as confirmed in the Transport Statement of Common Ground (**CD006**). There are no substantial grounds to challenge this conclusion. [18, 73]
114. Similarly, there is not reason to consider that the range of obligations within the Section 106 Agreement would not adequately overcome any shortfall in the local infrastructure, nor that matters such as the impact on habitats, and the risk of flooding, could not be resolved by the use of conditions. There is no official objection arising out of the proximity of the oil depot, nor clear evidence that the health and safety risks would be such as to prevent development in this area. Issues of design and local residential amenity would form the subject of reserved matters decisions. The Council raise no objection on the basis of harm to the setting of Listed Buildings or other heritage assets, and there is no reason for this report to take a different view. [10, 74-75]
115. The site is largely composed of Grade 2 and 3a agricultural land. Planning authorities should seek to direct development to poorer quality designations where there would be a significant loss of agricultural land, in accordance with NPPF para 112. The appellants point out that this does not amount to an absolute exclusion of development from the Best and Most Versatile land, nor that a loss of this order would necessarily be considered as 'significant', noting that only half the site would be developed. These points are noted, but, because of the nature of the proposals, it seems unlikely that the retained open space would ever be suitable for arable farming, and an area of 22ha would, in normal parlance, be considered a large site, over the threshold at which Natural England should be consulted<sup>22</sup>. However, it is also likely that the degree of significance would rely on an overall picture of the agricultural land supply position in the region, and the attendant economic consequences of any loss, on which there is limited information available. The Council do not put forward this issue as being of decisive importance in the appeal, and, in the circumstances, it is not possible to give it substantial weight. [68, 75]

#### *Sustainability and Overall Conclusions*

116. When assessed against the criteria in para 7 of the NPPF, the supply of market and affordable housing, along with care facilities, would make a significant contribution to meeting the social role of sustainability, complemented by the provision of public open space, although, in the latter case, at the expense of the loss of the rural character of the public footpath crossing the site. The

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<sup>22</sup> Ms Harding proof, para 11.3



additional population and employment opportunities would assist the economic life of the area, as would the supply of homes in an area with an acknowledged shortfall. There would be the environmental and community benefits arising out of the station improvements (but having regard to the Council's alternative scheme), any spin-off advantages for traffic and pollution levels, from the off-site highway works, and the environmental and ecological aspects of the landscaping proposals. [39, 63, 71]

117. As to whether this is a sustainable location in terms of accessibility is not agreed by the parties. It is certainly true that there would be very good access to the rail station, and the availability of a regular bus services, as well as the mix of facilities in the area, including educational institutions and the local health centre. On the other hand, town centre shops and services would be at some distance, in the surrounding settlements, as would the nearest convenience store, although, in the latter case, the new retail outlet at the station might supply some day to day needs. Whilst there is no clear reason to conclude that the new residents would seek local jobs any more than the existing population, there would be good availability of employment in the area, and easy access for rail commuting to Southampton or Portsmouth. On balance, this is a reasonably sustainable location in terms of accessibility. [37, 57, 61, 73]
118. To set against these positive aspects is the environmental and social damage which would arise out of the loss of the gap between the surrounding settlements, involving the physical intrusion into an area of countryside, and contributing to the coalescence of those settlements, and loss of independent identity. This would be clearly contrary to Local Plan policy 3.CO, but also those policies of the NPPF which apply the principle of recognising the different roles and character of different areas. This land performs a function which is specific to its location and which would be permanently undermined by the development. The countervailing benefits of the scheme, as well as compliance with other development plan policies, are recognised, but they would not outweigh the harm that this loss of separation would cause. Taken as a whole, the proposal does not amount to the form of sustainable development for which there is a presumption in favour. [36, 56, 69]

### **Recommendations**

119. For the reasons given, it is recommended that the appeal be dismissed. If the Secretary of State is minded to grant permission, it is recommended that it be subject to the conditions in Annex 3 of this report.

*John Chase*

INSPECTOR





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