

Land West of Park Farm, Thornbury

Planning Proof of Evidence

On behalf of Barwood Development Securities Ltd
and the North West Thornbury Landowner
Consortium

PINS Reference – APP/P0119/W/21/3288019
Local Planning Authority Reference Number – PT18/6450/O

February 2022



Contents

1.	Qualifications and Experience	1
2.	Introduction	3
3.	Site Description, Development Proposal and Planning History	6
4.	Background to the Appeal	7
5.	The Development Plan and Material Considerations	14
6.	Decision Making Framework	19
7.	Sustainability of the Proposals	31
8.	Summary of the Public Benefits	42
9.	Response to the Reasons for Refusal	47
10.	The Planning Balance and Conclusions	60
11.	Summary	64

Appendices

Appendix NM1:	Landscape Statement by Mr Richards of the Richards Partnership
Appendix NM2:	Highways Statement by Mr Thorne of Stantec
Appendix NM3:	Agricultural Considerations Statement by Mr Kernon of Kernon Consulting
Appendix NM4:	Biodiversity Net Gain Assessment by Mr Scholefield of EAD Ecology
Appendix NM5:	Assessment of Appeal Proposals against the Thornbury Neighbourhood Plan Policies
Appendix NM6:	Email from SGC LLFA to Barwood dated 11 February 2022
Appendix NM7:	Extract of 'The Economic Footprint of House Building in England and Wales' Report (2018) commissioned by the Home Builders Federation
Appendix NM8:	Extract from the Adopted Bristol Core Strategy (2011)
Appendix NM9:	Correspondence between the appellant and Council regarding financial contributions
Appendix NM10:	Appeal Decision for Land at Maplewood Road, Woodhouse Eaves (PINS Ref: APP/X2410/W/21/3271340)



1. Qualifications and Experience

1.1 My name is Nick Matthews MA MTCP MRTPI.

1.2 I am a Director in the Planning Division at Savills, a global multi-disciplinary property company. I have worked for Savills for approximately 17 years and was appointed Director in March 2013. Prior to joining Savills I was a Planner and Senior Planner in the Development Plans section of the Planning Inspectorate.

1.3 I hold a Masters Degree in Town & Country Planning from the University of Manchester and a Masters Degree in Real Estate & Business Management from the University of the West of England. I have been a full Member of the Royal Town Planning Institute (RTPI) since 2001. I confirm that in preparing this Proof I have complied with the requirements of the RTPI.

1.4 I have over 20 years' experience in planning, having worked in both the public and private sectors on a wide range of projects involving many different types of development at varying scales. This has included numerous appraisals, applications and advice on planning strategy for complex development projects. I have appeared at a large number of Examinations in Public promoting land for development.

1.5 I have advised on a wide variety of projects across the South West, including a number which have involved an impact upon heritage assets and development on agricultural land. These include:

- Advisor to Barwood Development Securities Ltd on the submission of an outline planning application for the construction of up to 800 dwellings, primary school, employment and supporting infrastructure to the east of Barnstable, Devon. The planning application, which was supported by an Environmental Statement addressed a wide range of issues including the heritage impact on a nearby complex of listed buildings including the Grade 1 Acland Barton and Chapel. The application now has a resolution to grant planning permission subject to signing of a Section 106 agreement.
- Advisor to the Hignett Family Trust in relation to the land south of Bath known as Sulis Down. Having secured an allocation and the release of the land from the Green Belt for circa 300 dwellings, I led on the submission of a Phase 1 planning application for 173 dwellings. During the plan-promotion and application stages the application addressed the heritage issues associated with the World Heritage Site status of the city and the exceptional circumstances required to support the release of land from the Green Belt.
- Advisor to the HorseWorld Trust and Bellway Homes in respect of the promotion and planning application for the redevelopment of the former HorseWorld visitor centre for 97 residential



dwellings. Adjacent to the application site is a Grade 2 listed former farmhouse. Having secured the removal of the land from the Green Belt through the B&NES Core Strategy and its allocation for development, I led on the submission of a full planning application.

- Advisor to Hallam Land Management in relation to a strategic residential development for up to 550 dwellings, a primary school, nursery and associated highways works at Highbridge in Sedgemoor District.

1.6 I have visited the site and am familiar with the site, surrounding area and the planning history and context.

1.7 My evidence has been prepared and will be given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2. Introduction

2.1 My Proof of Evidence is submitted in respect of the planning appeal (APP/P0119/W/21/3288019). The appeal was submitted by BDSL & The North West Thornbury Landowners Consortium (from hereon referred to as 'Barwood') in November 2021 in response to the failure of SGC to determine the application within the preceding three years. The appeal proposals comprise the following development on the land West of Park Farm, Thornbury:

Outline planning permission with all matters except vehicular access reserved, for:

- *Erection of up to 595 dwellings (Use Classes C3);*
- *Land for a Primary School (Use Class D1);*
- *Up to 700m² for a Retail and Community Hub (Use Classes A1, A2, D1);*
- *A network of open spaces including parkland, footpaths, allotments, landscaping and areas for informal recreation;*
- *New roads, a sustainable travel link (including a bus link), parking areas, accesses and paths; and*
- *The installation of services and drainage infrastructure.*

Scope and Structure of this Proof of Evidence

2.2 My evidence covers the following areas:

- The **Background to the Appeal** in Section 3 explains how the application process unfolded and the reason why the appeal was submitted as a result of the Council not determining the planning application within the prescribed period.
- Section 5 is provided for context, outlining the **Development Plan Context and Material Considerations** I consider relevant to the determination of the appeal.
- The following section describes the **Decision Making Framework** within which the appeal is to be determined. The evidence of Mr Pycroft concludes that the Council cannot demonstrate a five year supply of housing land and that the *tilted balance* is engaged as a consequence. Notwithstanding the housing land supply position, I consider that the relevant policies for the determination of the appeal are *out of date* and that in itself engages the *tilted balance*. I also consider the position absent the *tilted balance*.

- The next two sections describe the **Sustainability of the Proposals** and its predicted economic, social and environmental effects. The majority of these effects are positive and in the subsequent section I draw these out and summarise the **Public Benefits** associated with the delivery of the development.
- This is followed by a direct **Response to the Reasons for Refusal** that would have been given if the planning application had remained within the jurisdiction of the LPA to determine.
- In the penultimate section I draw a conclusion, providing the **Planning Balance** by applying the substantive evidence and judgements from the preceding three sections to the Decision Making Framework from Section 6.
- The final section contains a **Summary** of my evidence.

2.3 Throughout my evidence I reference:

- appendices to my evidence – prefix NM;
- material submitted alongside the appeal in the Essential Supporting Documents – prefix ESD; and
- Core Documents – prefix CD.

Specialist Evidence and Common Ground

2.4 Separate specialist evidence has been prepared by Mr Crutchley of Environmental Design Partnership in relation to heritage matters and Mr Pycroft of Emery Planning in relation to housing land supply matters and affordable housing.

2.5 Also, appended to my Proof of Evidence are three technical Statements on Landscape (Appendix NM1), Highways (Appendix NM2) and Agricultural Land (Appendix NM3) prepared by the relevant specialists in these areas. The Technical Note at Appendix NM4 contains a biodiversity net gain calculation undertaken by EAD Ecology.

2.6 At the time of writing, two Statements of Common Ground (SoCG) have been prepared and agreed. These cover:

- planning matters agreed between the appellant and SGC; and
- highways matters relating to the strategic road network agreed between the appellant and National Highways (NH).



2.7 I draw upon the conclusions of these specialists and the agreed SoCG where relevant in this Proof.



3. Site Description, Development Proposal and Planning History

- 3.1 A full description of the location and characteristics of the Appeal Site and the surrounding area, together with a description of the proposals, is included within the SoCG, Sections 2 and 4 of the Planning Statement (ESD J05(a).10), Section 2 of the Planning Statement Addendum (ESD J05(a).11), and Chapters 2 and 3 of the Environmental Statement (ESD J13.2 and J13.3). To avoid unnecessary duplication I direct the Inspector to these documents rather than repeat the description in my Proof.
- 3.2 The relevant planning history relates to the appeal proposals only.

4. Background to the Appeal

- 4.1. Since the Statement of Case was submitted with the appeal, officers have taken a Report to Committee (CD5.11) which provided further information on the background. In order to provide the full explanation of the background in a single location I have incorporated and updated the relevant text from the Statement of Case and added to this with my response to the further information that has come to light since the appeal was submitted.
- 4.2. Barwood first entered into an agreement with the landowners to promote their land for development in 2017. Following completion of the promotion agreement Barwood appointed a project team to develop a sensitively designed and technically sound scheme for the development of the site.
- 4.3. The starting point for this was the preparation of a robust analysis of the constraints and opportunities pertaining to the site. Each of the technical specialists appointed by Barwood undertook a thorough and detailed assessment of the baseline position. This assessment was then developed by the appointed masterplanner into an initial set of proposals through an iterative design process which took full account of the input from all of the consultants within the appellant's team.
- 4.4. Initial pre-application discussions commenced with the local planning authority following the submission of a detailed Pre-Application Submission Statement in March 2018. The premise for the discussions at that time were that the local authority, alongside its neighbours within the West of England¹ were embarking upon a joint plan-making process - the West of England Joint Spatial Plan (JSP) - to establish an up to date strategic plan for the region. The stated intention during these pre-application discussions was to develop a robust and sustainable proposal for the development of the site which could be supported by the local planning authority. This would then form the basis of an outline planning application to be submitted in parallel with the promotion of the land through the JSP.
- 4.5. Whilst the land was not allocated for development in the JSP, Barwood considered there were flaws with the emerging JSP proposals and that it would be necessary through the Examination stage to introduce additional and/or replacement land for development. Having an application 'on the table' at the time of the JSP Examination would demonstrate the sustainability and deliverability of the Appeal site, thereby supporting its introduction into the JSP should the Inspectors conclude that additional housing land needed to be identified.
- 4.6. An Environmental Impact Assessment (EIA) Scoping Request was submitted to SGC at the same time as the Pre-Application Submission Statement. This contained a detailed analysis of the likely significant environmental effects of the development and proposed a scope for the EIA accordingly. A formal Scoping

¹ Bristol City Council, North Somerset Council and Bath & North East Somerset Council

Opinion was provided by SGC confirming that the proposed development falls within Schedule 2 Section 10(b) of the EIA Regulations and providing the scope for the EIA.

- 4.7. The pre-application discussions progressed well and a consensus was reached with officers on a number of matters. Consistent with the aforementioned strategy, the application was submitted on 18 December 2018 with a full suite of supporting documents including an Environmental Statement (ES), in advance of the JSP Examination Hearings which commenced in July 2019. The OPA was subsequently validated and registered by SGC on 21 December 2018.
- 4.8. There followed a prolonged period of post-submission discussions with SGC and the statutory consultees. This period can be broken down broadly into two phases. During the first phase (between January 2019 and January 2020) a number of the comments expressed by SGC officers and Statutory Consultees were addressed through changes to the scheme and/or the submission of further information. A number of these changes² involved fundamental alterations to the application proposals and the description of development. The subsequent changes to the OPA were captured in a resubmission made by the appellant's in January 2020.
- 4.9. For clarity and to avoid confusion, the appellant's made a comprehensive resubmission of the application. The Planning Statement Addendum (ESD J05(a).11), which formed part of the resubmission, explains in Section 4 which resubmitted documents remained unchanged, which were replaced in full and which were subject to 'tracked changes'. Whether a document was replaced in full or subject to 'tracked changes' depended upon the extent of the revisions made, but all changes were made clear within the documentation.
- 4.10. Following the resubmission, further dialogue took place with SGC officers and statutory consultees. During this second phase (from January 2020 to March 2021), further changes were agreed with the officers in order to address their remaining concerns with aspects of the proposals. These changes were not fundamental in nature but nevertheless overcame the majority of comments that had been raised. A more limited resubmission was made on 8 September 2020 to capture these further changes. The contents of this further submission are summarised in the covering letter (ESD J06(a).14.1).
- 4.11. There followed further dialogue with officers, notably in relation to transport. A further update was made to the DAS which was submitted in March 2021 (CD7.1). This update, which addressed the concerns of the highways authority in relation to street cross-sections, car parking and electric vehicle charging was subsequently reviewed and accepted by the highways authority (CD2.1). By March 2021 the post-submission negotiations had been concluded.
- 4.12. The Planning SoCG summarises the consultation responses received and the final position adopted by the relevant SGC officers and statutory consultees. All initial concerns of technical officers at SGC and from

² See table at Paragraph 2.2 of the Planning Statement Addendum (ESD J05(a).11)

statutory consultees had been overcome with the exception of the SGC Conservation Officer and Historic England who agreed that the revisions to the scheme would 'minimise' the heritage harm and reduce the harm, taking it further towards the lower end of the 'less than substantial' spectrum.

- 4.13. Through this lengthy pre- and post-application dialogue with associated changes to the application proposals, the appellants consider that the final set of development proposals which are the subject of this appeal represents an exemplary, high-quality and sustainable development. The views of the SGC urban design officer Matt Haslam are particularly notable in their positive support for the application proposals as an example of good design, so much so that he asked in an email dated 19 May 2021 to the case officer whether the design could be used for an internal meeting with senior colleagues as an example of good design.
- 4.14. After the final issue had been resolved in March 2021 regarding the timing of improvement works to Junction 14 of the M5, it was agreed between the appellant and SGC case officer that the application would proceed to planning committee with a recommendation for approval. The email from the case officer to the Committee clerk dated 12 April 2021 (CD5.1) confirms that was her understanding and intention. What then followed is not entirely clear. The application was due to be considered at the April 2021 planning committee but was withdrawn at late notice without explanation. The same happened again in June 2021 and in order to try and understand the reasons for this the appellant submitted a Freedom of Information (FOI) request to SGC requesting details of correspondence between officers and members relating to the planning application.
- 4.15. It would appear from the correspondence provided by SGC in response to the FOI that Executive Members at SGC had requested a private meeting with officers to discuss the application. To inform that meeting, which took place on 17 May 2021, a Briefing Note (CD5.3a) summarising the planning application and the position of officers was shared with the Executive Members of SGC including the Leader of the Council on a confidential basis. This Briefing Note was drafted by the Case Officer – Cat Loveday – an experienced Principal Planning Officer. It was subsequently reviewed, amended and signed off by Jasbir Sandhu, the Team Leader of the Major Sites Team, and Brian Glasson, the Head of Strategic Planning and Housing, before being sent to the Executive Members. The contents are therefore the combined judgement and position of a number of senior officers at SGC as evidenced by the email correspondence between the three officers (CD5.2).
- 4.16. The final paragraph of the Briefing Note explains the case officer's conclusions (as endorsed by her senior colleagues) on the planning balance as follows:

"The application is ready to be taken forward to the Strategic Sites Delivery Committee. In summary the scheme would be, in the assessment of officers, fully policy compliant, but for the fact that the site is not allocated in the Core Strategy for housing development. In assessing the planning balance and weighting to key planning considerations officers therefore recommend approval with

conditions, subject to S106 Agreement. The application will be taken forward to Strategic Sites Delivery Committee in June". [emphasis added]

4.17. Despite this clear steer that, in the professional judgement of three experienced officers, the planning balance weighed in favour granting planning permission, officers were evidently asked by elected members to revisit elements of the application prior to planning committee. The correspondence which has been made available following the FOI request provides no insights into the purpose of this review or why the opinion of the SGC conservation and landscape officers were concluded to be insufficient to support the planning officer's judgement and proposed recommendation for the positive determination of the planning application. This is somewhat puzzling as it would appear that the conservation officer himself had not been involved in the discussions or asked for his opinion on the matter. Rather, it appears to have been the decision of the elected members alone to request the review.

4.18. On 18 May 2021 following the Executive meeting Brian Glasson wrote an internal email to Jasbir Sandhu and Cat Loveday asking the case officer to look at:

- (1) *Strength of any refusal options - impact on heritage assets, scale of development, impact on settlement pattern, perceived lack of benefits to address issues facing the town.*
- (2) *Any negotiation...reduce size of the scheme to scale that could be built out over 5 years?*
- (3) *Approval case.*

4.19. The response of the case officer on 26 May 2021 (CD5.6) explains her position in respect of points (1) and (3). This has been copied below for convenience with the underlined text that provided by the case officer in response to the questions raised:

- (1) *Strength of any refusal options – impact on heritage assets – less than substantial harm – Grade I St Mary's Church and Thornbury Castle and Grade II Sheiling School, scale of development – distance it extends – transport officers sought counsel advice and recommended that the walking distances were acceptable and there is also on site provision of facilities, impact on settlement pattern – next logical area for growth green belt restrictions and upper Morton to North / slopes to one side and castle to other, perceived lack of benefits to address issues facing the town – CIL site and provision of school site (education no objection), junction and highways improvements, bus link through Park Farm make this viable, policy compliant POS/ affordable housing*
- (2) *Any negotiation...reduce size of the scheme to scale that could be built out over 5 years?*

(3) Approval case – Balance of policies being 5 years old and settlement boundaries given less weight – taken approach with other sites that marginal 5YHLS – no objection bar heritage which is less than substantial harm to be weighed in balance.

Risks – Delivery of J14 works later following 100 homes and appeal costs.

- 4.20. The response of the case officer rebuts the potential ‘refusal options’ and the comments made in relation to the case for approval indicate support for the grant of planning permission. When taken alongside the report of the officers to the Executive (CD5.3a) and the subsequent email from the case officer dated 10 June 2021 (CD5.8), it is clear that the professional judgement of the case officer remained that on balance planning permission should be granted.
- 4.21. In spite of their professional judgement, officers nevertheless instructed Counsel in respect of the application. A copy of the Instructions to Counsel has not been made available, however, the email correspondence dated 24 May 2021 (CD5.5) indicates that advice was sought on “*the planning balance and viability of reasons for refusal*”.
- 4.22. It is not clear when the Conference with Counsel (Alex Greaves of Francis Taylor Chambers) took place, nor has a copy of the advice from Counsel been disclosed. Nonetheless it would appear to have been in the last week of May 2021. On 9 June 2021 Brian Glasson wrote to the case officer Cat Loveday as follows (CD5.7):

“Cat that was a really useful meeting with Alex, thank you for all the work you have done on this and the application up to this point.

*I hope it is really clear that your initial assessment and approach throughout have not been wrong, it's just that **we have been asked to test other options** and it does look like there is **some scope to go in a different direction** on this should we, or the committee choose to do so.*

I think the actions I captured were:-

- *We need to send the relevant application reports to Alex on Engine Common, Crossways etc and any other recent strategic site decision*
- *Alex to send us his note by Friday*
- *Once we have this advice we need to make sure the approach to giving ‘full weight’ to the Core Strategy policies is communicated to the Local Plan team and MST and DM officers (by way of a revised policy note I would suggest)*
- *We need to commission Heritage advice*

- *We need to consider commissioning Landscape advice*
- *We need to do a brief up-date note for Cllr Reade/Savage” (‘emphasis added’)*

4.23. Further correspondence (CD5.9) indicates that the planning case officer was asked to engage with Nigel Evers at Viridian Landscape Planning to advise on landscape matters, and Adrian Gascoyne and Tim Murphy in the Essex County Council Place Services Team in respect of heritage. No further information has been provided on any landscape appointment or instructions, however an email to Adrian Gascoyne and Tim Murphy dated 30 June 2021 (CD5.10) requested a proposal to cover the following:

- *“A quote for the review of the current application and whether the application can be supported in its most recent iteration; and*
- *A quote for representing the Council at an appeal – likely to be public inquiry – including preparation of evidence for the statement of case, the proof of evidence and attendance at the inquiry as the Council witness. (this may be a best estimate as opposed to a detailed quote).”*

4.24. It is notable that the officer’s email request to Tim Murphy not only sought further advice on heritage but also a fee proposal for representing SGC at a planning appeal inquiry. Given the positive dialogue that had taken place between the appellant and SGC officers and statutory consultees throughout the pre- and post-application period, and that not only were all other technical matters resolved but the proposals were being held up as an exemplary development by the urban design officer, it is regrettable that the requested scope of work did not include engagement with the appellant’s to discuss whether their concerns, if indeed they had any, could be overcome. On the contrary, the underlying assumption, even before the advice of Tim Murphy had been received, appears to have been that the application would be the subject of an appeal. At the very least, this is not in the spirit of national guidance which highlights the importance of continued discussions over planning applications to avoid appeals where at all possible:

“The local planning authority should have constructive discussions with the applicant and, if it has any concerns, give the applicant the opportunity to amend the application before it is decided. This should help to avoid the need to appeal, especially appeals where the local planning authority has failed to make a decision”.³

4.25. In light of the substantial delays to the determination of the planning application despite the final technical highways issue having been resolved on March 2021, and that the appellant’s received no reply to an offer of an extension of time if SGC would commit to a specific timetable to resolve any outstanding concerns (ESD J10.3 - Lizzie Marjoram to Nigel Riglar 16 August 2021), the appellants were left with no option but to submit an appeal under Section 78 of the Town and Country Planning Act against non-determination.

³ Procedural Guide: Planning appeals – England (Updated 13 October 2021), paragraph 1.3.1

- 4.26. It subsequently came to light through the Planning Officers Report to Committee on the application that third party heritage and landscape advice had been provided to officers from the consultants whom they had approached. Both matters are summarised in the Officers Report and SGC has also subsequently published the Heritage Advice Note produced by Tim Murphy at Essex County Council Place Services Team on the application page of the website (CD2.15).
- 4.27. Based upon the information available, it would appear that the third party landscape advice did not alter the Council's previously adopted position in respect of the impact of development. The third party heritage advice did though deviate from that of the Conservation Officer but rather than identifying a greater level of harm, the advice concluded that the development would result in no harm to heritage assets.
- 4.28. We know from the Report to Executive Members that officers had originally proposed to recommend the planning application for approval. The only evidence which changed subsequently was advice commissioned by SGC which concluded that the level of harm to heritage was in fact lower than officers had previously been advised. Despite what would appear to be an adjustment of the scales in favour of granting planning permission, the Officers Report in January 2022 performed a full U-turn and recommended refusal of the planning application. It would appear that officers in the end decided to *go in a different direction*.
- 4.29. The original case officer Cat Loveday was replaced and the report in January 2022 was signed off by Eileen Patterson. The report does not hang together very well. For example, at various points it refers to the s106 requirements which are summarised at section 7, however section 7 contains a recommendation for refusal and all references to the section 106 requirements must therefore have been removed. One possible explanation for this is that the report was written for approval by one author (presumably the first case officer Cat Loveday) and then updated by the new case officer Eileen Patterson who deleted the recommendation for approval and replaced it with a recommendation for refusal, thus also deleting the s106 requirements. This was an oversight which had to be remedied at committee by the addition of a 4th reason for refusal summarising the section 106 requirements.
- 4.30. The appellant does have serious concerns that the Council actively sought reasons to refuse development which should have been approved. This matters because the high water mark of the Council's defence of this appeal is that this is a finely balanced judgment and in taking that stance the Council has ignored the responsibility to proactively boost the supply of housing and it has deliberately underplayed the benefits of the appeal scheme. It has also approached the determination of the planning application in an entirely contrary manner to the "*positive and creative way*" expected of them by Government⁴.

⁴ In accordance with Paragraph 38 of the Framework.

5. The Development Plan and Material Considerations

5.1. In this section of my evidence I set out the planning policies and material considerations relevant to the determination of the appeal. My assessment of the proposals takes into account the key policies in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states that the determination of planning applications should be made in accordance with the Development Plan unless material considerations indicate otherwise.

Adopted Development Plan

5.2. The Development Plan comprises the South Gloucestershire Core Strategy (adopted December 2013) and the Places, Sites and Policies Development Plan Document (PSP) (November 2017).

5.3. The relevant policies have been agreed, and are set out in the SoCG with the Applicants. Of the 18 relevant policies in the Core Strategy and 21 relevant policies in the PSP, there are four which are highlighted as forming part of the reasons for refusal of the planning application. These four are as follows:

- Policy CS5 – Location of Development;
- Policy CS9 – Managing the Environment and Heritage;
- Policy CS34 – Rural Areas; and
- Policy PSP17 – Heritage Assets and the Historic Environment.

5.4. The following sections of my Proof of Evidence explains the weight to be attributed to these policies in the determination of the planning appeal.

Material Considerations

5.5. The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations, and are referenced where relevant.

5.6. Paragraph 2.3 of the Officers Report to Committee lists a number of further supplementary planning documents (SPD) adopted by SGC which are capable of being material considerations. The only SPD in that list which relates to the reasons for refusal and which is considered relevant to the appeal is the Community Infrastructure Levy & Section 106 Planning Obligations Guide SPD (adopted March 2021).

5.7. The emerging development plan comprises the following:

- West of England Combined Authority Spatial Development Strategy (SDS);
- South Gloucestershire new Local Plan; and
- Thornbury Neighbourhood Development Plan.

5.8. The first two of these emerging plans are at a very early stage in their preparation. There has been a single early engagement event on the SDS and the Draft SDS is not due to be published until Spring 2022. There are no published policies for the SDS even in draft form which could be considered relevant to the determination of the appeal.

5.9. In respect of the Local Plan, an Issues and Approaches consultation under Regulation 18 took place from 27 November 2020 to 1 March 2021. A further Phase 2 consultation is currently ongoing until 21 March 2022, however, this consultation is again under Regulation 18. According to the latest SGC Local Delivery Programme 2022-2025 (CD1.11) is not until the SDS has been endorsed that the Pre-Submission Local Plan under Regulation 19 will be published. This is entirely logical as the Pre-Submission Local Plan could not be produced absent of the strategic policies of the SDS.

5.10. The majority of the current Phase 2 Consultation Document summarises the feedback from the previous round of consultation, identifies the potential opportunities for redevelopment and safeguarding of land within the existing urban areas, and details emerging development policy approaches. The weight that should be applied to it is therefore very limited and where there is a conflict, due to the early stage of production, this would not outweigh the adopted policy. However, with this in mind, the following is of note:

- The Standard Method for Local Housing Needs (the 'Standard Method') requirement for SGC over an 18 year period is 24,354 dwellings. According to the Consultation Document 12,777 dwellings have planning permission leaving a residual of 11,577 dwellings. The Consultation Document does however recognise that these requirement and residual figures exclude any contribution towards meeting Bristol's housing needs and that a currently unknown figure 'may' (I would argue 'inevitably will') be added to the Standard Method requirement through the SDS process.
- Page 121 of the Consultation Document lists six bullet points governing development proposals under the overarching objective of enhancing the vitality and character of Thornbury town centre. Whilst the consultation as a whole and the opportunities for development relate specifically to the urban area, it is notable that the appeal proposals would contribute positively towards achieving these objectives.
- The second bullet point on the list of objectives for Thornbury is to support the regeneration and economic health of the town centre and community facilities. It is therefore evidently the case that

SGC wish to support the vitality of the town centre and that the scale of development envisaged as sufficient in the adopted Core Strategy has not achieved this objective. This is important to the consideration of the third reason for refusal as addressed in Section 9 of this Proof.

- Despite what appears to have been an extensive trawl, only one potential site allocation has been identified on brownfield land at Thornbury and this has the potential to accommodate up to only 15 dwellings.
- Section 10 of the Consultation Document proposes broad areas which could be safeguarded for wind turbines. The appeal site does not fall within any such area.
- Section 11 contains a potential Strategic Green Infrastructure Network plan. The appeal site does not fall within this proposed network.
- The draft policy wording for a number of generic development plan policies is still at a very early stage in preparation and for the reasons set out above are not of sufficient weight as material considerations to outweigh the adopted policies in the determination of the appeal.

5.11. The emerging Thornbury Neighbourhood Plan (TNP) has progressed through the examination process and is due to be subject to a local referendum in March 2022. It is highly likely therefore that the TNP will be adopted in advance of the determination of the appeal and its policies will form part of the Development Plan. I have assumed that the Referendum version of the TNP will therefore form part of the Development Plan at the time of the appeal Inquiry.

5.12. The TNP contains a positive and permissive approach to growth. Whilst it does not in itself allocate land for development, its Vision is one which explicitly supports “*well planned, high quality, sustainable and affordable homes*” and “*the prosperity and wellbeing of its residents*”.

5.13. The broad policy approach in the TNP is aligned with this vision. It does not seek to restrict or limit development; on the contrary many of its policies are designed to guide and shape development proposals to accord with local priorities. For example, Policy 18 of the TNP relates to the creation of connections through Streamside Walks. The policy wording starts with “*applications for development are encouraged ...*”. Similar wording can be found at the start of Policy 2 which states that “*applicants for development schemes for any major development site within the Neighbourhood Plan ...*”.

5.14. It is clearly envisaged that there would be major development proposals to which these policies would apply. Since no allocations have been made in the TNP I can only assume that over the lifetime of the plan the Neighbourhood Plan Group were anticipating such applications to be submitted.

5.15. Furthermore, having reviewed the policies of the TNP I consider that the appeal proposals are in accordance

with these policies. Indeed, in a number of instances the proposals will support the delivery of locally defined objectives for the town, for example, the creation of connections through Streamside Walks. The new informal open space either side of the Pickedmoor Brook will extend and enhance this route, positively contributing to the achievement of this policy objective. To aid the Inquiry I have produced an analysis of the appeal proposals against the policies of the TNP; this is included in Appendix NM5. In addition to the policy analysis appended to this Proof, there are three further matters to note:

1. Contrary to the position presented by TRAPP'D in their representation on the appeal submitted to PINS on 21 February 2022, the TNP does not include any proposed allocations for housing development and paragraph 14 of the Framework is not therefore engaged. For the reasons I will come on to, the tilted balance therefore remains in place;
2. The TNP at no point seeks to reinforce the adopted settlement boundary of the town. On the contrary, Section 3.4 of the plan recognises that development proposals have come forward during the preparation of the TNP on land beyond the settlement boundary. Rather than express any objection in principle to these developments, the TNP advises that their impact *"will need to be addressed, particularly in relation to the need for supporting infrastructure and services ..."*; and
3. In their representation on the appeal TRAPP'D argue that *"if residents should vote for this Plan and then be told a few weeks later that the proposals they have voted for will not be implemented because their wishes have been trumped by an inquiry, then it will be seen to undermine the Government's policy on encouraging Neighbourhood Plans and destroy any remaining faith in local planning democracy"*. I do not agree with this conclusion for the following three reasons:
 - a. As explained above, the appeal proposals do not conflict with any of the policies of the TNP, on the contrary they will support the delivery of certain elements.
 - b. The policies of the TNP are not designed to prevent development such as the appeal proposals being granted planning permission. There are a wide range of policies relating to mixed use development, brownfield and infill sites, town centre design principles etc. These policies reflect local priorities and aspirations and would in no way be undermined if planning permission was to be granted for the appeal proposals.
 - c. As appeal decisions elsewhere demonstrate, if a local community has actively and positively engaged in allocating land for development to meet a recognised housing needs through a neighbourhood plan only for a development to come forward on an unallocated site, then the conflict with the neighbourhood plan could rightly be said to undermine confidence in the process. That is not the case here however as the TNP went through no such process and contains no allocations.

This argument was made in similar circumstances at an appeal at Woodhouse Eaves in Charnwood Borough⁵. In that case the Inspector concluded that:

“It was contended too that the proposal would undermine confidence and support for Neighbourhood Plan process. I recognise the effort and commitment that has gone into the preparation of the WNP, and the timings involved between this appeal and the forthcoming referenda. However, even if it was ‘made’ there could still be decisions that did not accord with the WNP, because, while the development plan has a primacy in decision-making, material considerations can mean that in certain instances decisions are justified to the contrary. Furthermore, following the approach in paragraph 11 of the Framework does not, to my mind, undermine this development plan process. Rather that approach only becomes applicable when the process as a whole does not achieve one of its fundamental tasks, namely the provision of an adequate supply of housing land. Finally, I fully expect that the WNP delivers far more than seeking to resist development on this site alone, and so would have a strong and useful role to play in shaping the future of Woodhouse Eaves. Therefore, irrespective of this decision, I anticipate that proceeding with the referendum and taking WNP forward would be of great value, with it being part of the development plan once it was ‘made’ and, potentially, resulting in Framework paragraph 14 being applicable in certain circumstances. Therefore, I see no reason why allowing this appeal should necessarily ‘derail’ or ‘undermine’ the Neighbourhood Plan process. For these reasons, the weight I can afford this matter in the planning balance is limited”.

- 5.16. For the reasons set out above, I do not consider that the appeal proposals conflict with the spirit, purpose or policies of the TNP, nor should it undermine public confidence or trust in the planning process.
- 5.17. The other material considerations relevant to the determination of the appeal are the public benefits which I have outlined later in my Proof along with an explanation of the weight that I consider should be attributed to these benefits.

⁵ See Appeal Decision APP/X2410/W/21/3271340 attached at Appendix NM10, paragraph 65.

6. Decision Making Framework

- 6.1. The starting point for the determination of this appeal is Section 38(6) of the Planning and Compulsory Purchase Act:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

- 6.2. In applying the judgement required to fulfil the duty under Section 38(6) it is necessary to have regard to paragraph 11 of the Framework which states the following:

“Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

- 6.3. Paragraph 11 does not override or reduce the primacy of the development in the determination of planning appeal. Rather it alters the weight to be attributed to the policies of the development plan and material considerations when a judgement is to be made pursuant to Section 38(6).

- 6.4. There are two policies in the adopted Development Plan which are the most important in determining this appeal – Policies CS5 and CS34. The former provides the spatial strategy and articulates the broad locations for development. In so far as Thornbury is concerned it states at point (3) that:

“At Thornbury, new development will be of a scale appropriate to revitalise the town centre and strengthen community services and facilities”.

- 6.5. The latter, Policy CS34 states that:

“... development proposals will take account of the vision for the rural areas and partnership priorities, accord with Neighbourhood Plan initiatives and will: ... 5. maintain the settlement

boundaries defined on the Policies Map around rural settlements until they are reviewed either through Neighbourhood Plans, the Policies, Sites and Places DPD or a replacement Local Plan following engagement with local communities and other stakeholders / partners”.

6.6. I consider that these policies are out of date for the following two independent reasons which are explained in turn below:

1. the housing land supply falls below five years, thereby engaging the tilted balance by virtue of paragraph 74 of the Framework; and
2. the Policies are out of date irrespective of the housing land supply position as they are predicated upon an out of date assessment of housing needs, and one which has no regard to the wider Housing Market Area.

Five Year Housing Land Supply Shortfall

6.7. Contrary to the position of SGC in their latest Monitoring Report, the evidence of Mr Pycroft demonstrates that a five year supply of housing land does not exist and that, in accordance with Paragraph 74 of the Framework. The evidence to support this conclusion is provided in the separate Proof prepared by Mr Pycroft, see paragraph 22.1. In summary, his conclusion is that:

“the Council cannot demonstrate a deliverable five year housing land supply in accordance with the Framework. I have concluded that the deliverable five year housing land supply is 6,106 dwellings, which against the local housing need and a 5% buffer equates to 4.3 years. This represents a shortfall against the local housing need and a 5% buffer of 997 dwellings”.

6.8. As a consequence of the supply falling short of five years, the **tilted balance is engaged** and planning permission should be granted provided that the subsequent two limbed test contained in paragraphs 11(d)(i) and 11(d)(ii) of the Framework is passed.

The Policies are Out of Date Irrespective of the Housing Land Supply Position

6.9. Notwithstanding the evidence to the contrary, even if it was concluded that SGC could demonstrate a five year supply of housing land, I consider that, in the particular circumstances pertaining to the plan-making process in SGC, the policies most important for determining the appeal are ‘out of date’.

6.10. Policies CS5 and CS34 are designed to restrict development outside of the defined settlement boundaries except in a limited number of circumstances. The purpose of this is to direct development in accordance with the spatial strategy of the adopted development plan. There are two fundamental and linked reasons why policies which restrict development in this manner are out of date:

- a) First, the spatial strategy and the housing requirement upon which it is predicated was first established in a development plan 'submitted' in March 2011. It therefore pre-dated the Framework and Duty to Cooperate, and had no regard to the housing needs of the wider Bristol Housing Market Area (HMA). For a number of years the spatial strategy has therefore failed to deliver a sufficient number of homes; and
- b) Second, the adopted spatial strategy is incapable of delivering the step-change in housing delivery necessary to address the likely housing requirement in the emerging WECA SDS. A boost in housing supply is needed now to assist in this transition.

6.11. I will now address each of these reasons in turn.

a) *Failure to have regard to the housing needs of the wider Bristol HMA*

6.12. To understand this reason and its implications for housing delivery across the West of England it is necessary to take a brief step back in time to when Bristol was preparing its Core Strategy (BCS). The BCS was adopted in June 2011. A subsequent Site Allocations DPD has since been adopted but the most up-to-date strategic policies (including the housing requirement in Policy BCS5) remain of those of the BCS⁶.

6.13. Policy BCS5 was prepared pre-NPPF, in the era of PPS3, and, as the supporting text to the policy acknowledges, there was no definitive assessment of housing demand undertaken to inform it. Paragraphs 4.5.7-4.5.8 of the BCS demonstrate that whilst the 2008-based Household Projections (which projected an increase of 72,000 households in the City during the plan period) were reviewed, these were disregarded and the level of housing demand was calculated purely on the basis of economic forecasts from 2010.

6.14. The following paragraph of the supporting text explains the estimated housing capacity in the authority area, concluding "*that the level of new homes that can be delivered from identified sites within the built up area is about 26,400*". It is this figure which was subsequently included in Policy BCS5 as the housing target despite paragraph 4.5.17 of the BCS acknowledging that "*the SHMA suggests a substantial gap between forecast affordable housing need and potential affordable housing supply. The Council's choice of the scale of overall housing to be accommodated inevitably limits the number of affordable homes that can be delivered. The likely gap between affordable housing need and provision will have negative socio-economic consequences*".

6.15. Recognising the uncertainty of economic forecasts, paragraph 4. 5.16 states that "*the appropriate level [of housing] will be reviewed within five years of the adoption of the Core Strategy*". This commitment was reasserted in the Policy but has never been acted upon; the BCS is now coming up to 11 years old and no Local Plan review has progressed beyond Regulation 18 stage.

⁶ The relevant extract of the BCS has been appended to this Proof at Appendix NM8

- 6.16. This background is really important in understanding what then happened next with the plan-making in the three authority areas neighbouring Bristol City including, most notably for this appeal, South Gloucestershire.
- 6.17. Despite Bristol acknowledging in the BCS that the 26,400 dwelling target fell substantially short of the household projections from the time and that the target would lead to a significant under delivery of affordable housing, there was no attempt to address the shortfall in the emerging plans of the neighbouring authorities. Instead, each neighbouring authority submitted plans which accommodated only their own independent assessed level of housing need.
- 6.18. This left each of the appointed development plan inspectors in a very difficult position; either they allow the local plans in South Gloucestershire, North Somerset and Bath & North East Somerset to proceed to adoption with deficient housing requirements but with allocations that would deliver some planned growth, or they find the plans fundamentally unsound and send the authorities back to the drawing board. After lengthy examinations, each of the inspectors opted for the former 'pragmatic solution'. A key factor in supporting the 'pragmatic solution' to allow the plans to proceed was the prospect of future collaboration on a SHMA for the West of England area which would provide an holistic over-view of the Bristol and Bath Housing Market Areas. This initial commitment to producing a joint SHMA subsequently evolved into the proposed JSP designed to coordinate growth across the four authorities based upon the up to date SHMA.
- 6.19. This context explains why the examining Inspector in his final Report on the South Gloucestershire Core Strategy, dated 15 November 2013 (CD1.2) came to the following conclusions on the housing requirement:
84. **"Without a NPPF compliant SHMA the degree of reliance that can be placed upon this figure is uncertain because it is not clear what the housing needs of the wider HMA are and whether joint working between the relevant authorities would require revisions to housing targets before the end of the plan period.** *There is, however, a reasonable expectation that any deficiencies in the information base will be identified through the findings of a new SMHA which can be taken into account in the review [RD69]. In these circumstances it would not be justified to delay this plan until the new SHMA is completed.*
85. **Subject to the Council undertaking an early review I am satisfied** *that the proposals in the CS (as modified by MM15) provide a `basis for taking the Plan forwards. I have previously mentioned the potential role that land in the Green Belt may have in meeting further needs and a re-appraisal of this should be seen as a key component of the review process. The latter could incorporate the work being carried out for the PSPDPD leading to the production of a replacement local plan, should the Council decide to adopt this approach.*
86. *I therefore consider South Gloucestershire should aim to adopt a replacement plan as soon as reasonably possible. I previously felt this should be done prior to 2021 but **the timetable for the***

newly instigated SHMA process means this can and should be brought forward so that a review/replacement plan is in place by the end of 2018. *This would allow the Council sufficient time to take into account the implications of the SHMA, to assess its housing land supply position and the success of the new neighbourhoods in meeting housing needs. In addition, it would enable the Council to re-examine strategic development options, including any adjustments which may be required to Green Belt boundaries. Reference to the review date is included in MM15.”*
[emphasis added]

6.20. As explained above, the Core Strategy Inspector clearly sought to find a way through the challenges presented by the changing national policy and the lack of an NPPF compliant SHMA as best as possible but inevitably landed upon a compromise solution. A key feature in his finding that this compromise solution was sound was the need for an early review of the housing requirement following the preparation of a joint SHMA between those authorities in the Bristol HMA. It was clearly anticipated (at para 86) that this review would be in place by the end of 2018.

6.21. This conclusion resulted in the introduction of a commitment in paragraph 10.10 of the Core Strategy (CD1.1) that:

“To ensure sufficient land is made available to meet housing needs to the end of the plan period the Council will undertake a review of the Core Strategy/Local Plan to be completed before the end of 2018. *This should be based on a revised Strategic Housing Market Assessment undertaken in conjunction with other relevant authorities in the West of England region”.* [emphasis added]

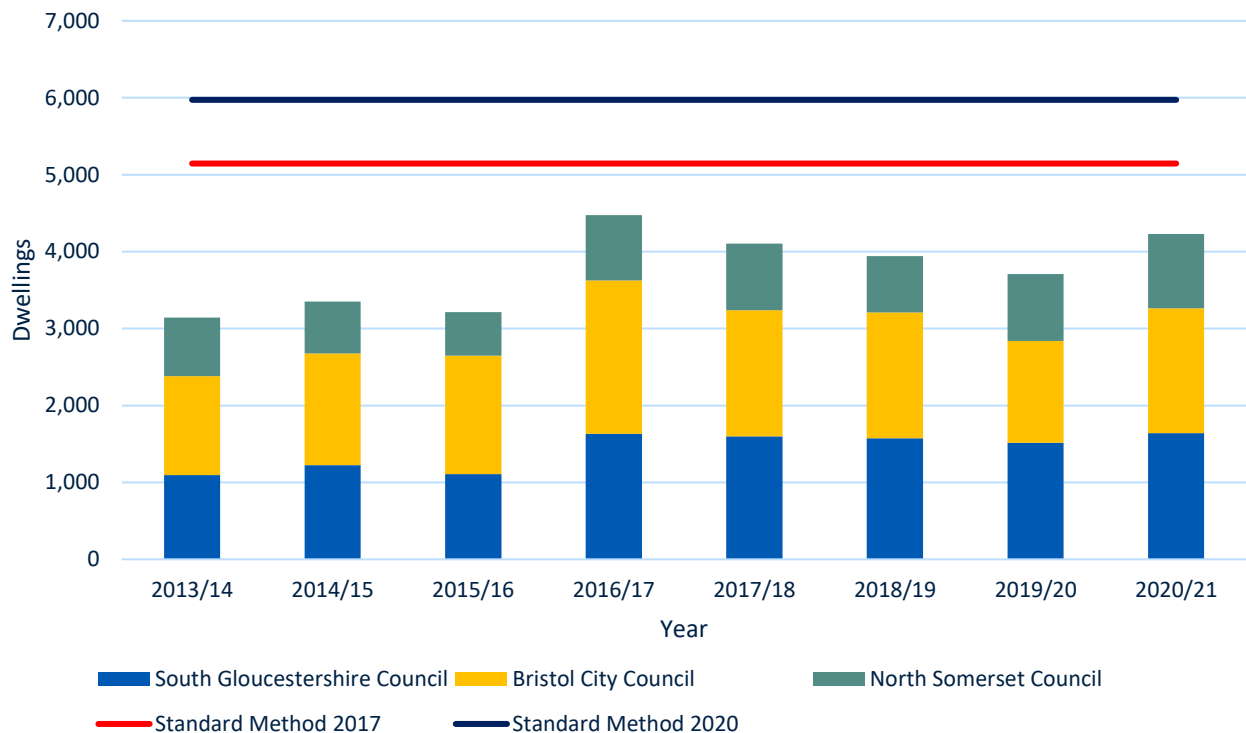
6.22. Despite this clear commitment there has been no new development plan prepared which is based on a Framework compliant assessment of housing need for the full HMA. It was the authorities’ intention that this development plan would come in the form of the JSP, however, even before the examination hearing sessions were completed, the JSP examining inspectors concluded that the submitted version was fundamentally and irreparably unsound, and that the examination should not therefore proceed. The JSP was formally withdrawn from Examination on 7 April 2020.

6.23. The latest attempt to develop a shared planning strategy between the authorities is the SDS. The original timetable for the preparation of the SDS was made public at the West of England Joint Committee Meeting on 19 June 2020 (CD1.8). After a 12 month window within which the evidence base was being prepared, the draft SDS was to be subject to West of England Combined Authority (WECA) sign off and a 12 week consultation period between June-October 2021. This consultation has not taken place and the latest we understand is that it will be Spring 2022 at the earliest before the draft SDS is published.

- 6.24. The delays to strategic planning have had a significant knock on effect to the Local Plan timetable. I have reviewed previous 'Local Development Schemes' and their successors 'Local Plan Delivery Programmes' published by SGC which demonstrate the extent of the programme slippages over the past eight years.
- 6.25. It is a matter of fact that the development plan process has failed to address the recommendation of the Core Strategy Inspector and the commitment made in paragraph 10.10 of the Core Strategy to undertake a review of the Local Plan which has regard to the housing needs of the wider HMA. Indeed, it is now over three years since the Core Strategy Inspector's deadline passed for the review of the Local Plan to have been completed.
- 6.26. The purpose of the review was "*to ensure sufficient land is made available to meet housing needs [based upon the West of England SHMA] to the end of the plan period*". With the new Local Plan not due to be adopted until 2024 at the earliest, there is little if any prospect of the review having any impact upon the supply of housing during the plan period.
- 6.27. Furthermore, given the persistent slippages in the Local Plan timetable and the fact that both the SDS and emerging Local Plan are at very early stages, it would not be at all surprising to see further slippage of the Local Plan Delivery Programme in due course.
- 6.28. The effect of failing to plan for the full needs of the HMA through the Core Strategy and then not reviewing the plan as required by the Inspector has been a very significant cumulative backlog of housing delivery building up over the past eight years since the Core Strategy was adopted. Whilst there is no truly accurate way of calculating the extent of the backlog, it is possible to gain some understanding using the Standard Method outputs as a proxy for the requirement over this period. Figure 1 shows the housing completions over the past eight years for each of the three authorities within the Bristol HMA - Bristol City Council, South Gloucestershire Council and North Somerset Council - and measures the cumulative total against the Standard Method requirements from 2017 and 2020 using the methodologies approved at those times.
- 6.29. This shows that in each year since the Core Strategy was adopted there has been a significant shortfall in housing delivery against the Standard Method requirement for the HMA as calculated in 2017 and against the current 2020 methodology. Indeed cumulatively over this period, the shortfall amounts to 10,995 and 17,619 dwellings against the Standard Method figures from 2017 and 2020 respectively. That is 10,995 – 17,619 homes that have not been built simply because the development plans for the three authority areas did not contain policies and proposals to deliver the up-to-date housing requirement for the HMA as a whole.
- b) The boost in housing needed to achieve a step-change in delivery*
- 6.30. The SDS will establish the housing requirement for each of the three constituent local authorities and provide an overarching spatial strategy. When it is published, the draft SDS is highly likely to include a step-change in the housing requirement for SGC.



Figure 1 – Housing Completions in the Bristol HMA



Source: Live Table 122: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-net-supply-of-housing>

6.31. Based upon the Standard Method, the housing requirement for the SDS is 5,256 dwellings per annum (dpa). To put this in context, this is 1,856 dpa greater than the combined 3,400 dpa requirement in the three authorities respective adopted Local Plans.

6.32. In the absence of the Draft SDS there is no evidence which indicates how the housing requirement for the SDS will be distributed between the three authority areas. In the meantime and to help understand the implications of the updated assessment of housing need derived from the Standard Method, I have estimated the potential distribution based on the following assumptions:

- That the WECA authorities plan for the Standard Method figure only and do not apply an uplift;
- The housing needs will be accommodated entirely within the WECA area;
- The requirement for North Somerset (which was part of the JSP but is not part of the SDS) is removed from the total requirement of 105,500 dwellings, resulting in a residual need for the remaining three authorities of 80,500 dwellings;

- The proportionate distribution of housing amongst the authorities remains consistent with the distribution in the JSP.

6.33. The outcome of this analysis (contained in Figure 2) is that the requirement for SGC over 20 year period of the SDS would be 42,440 dwellings or 2,122 dwellings per annum (dpa).

Figure 2 – Estimation of SGC Housing Requirement

Authority	WoE JSP	JSP minus NSC	Proportionate Distribution	SM Requirement	Annual Requirement
BCC	33,500	33,500	41.6%	43,746	2,187
SGC	32,500	32,500	40.4%	42,440	2,122
B&NES	14,500	14,500	18.0%	18,935	947
NSC	25,000	-	-	-	-
Total	105,500	80,500	-	105,120	5,256

6.34. To set this in context and demonstrate the extent of the step-change, housing delivery within South Gloucestershire over the Core Strategy plan period has been significantly below this figure and indeed has even fallen below the requirement set in the Core Strategy by all measures. Specifically:

- According to the latest 2020 Annual Monitoring Report, an average of 1,113 dpa has been delivered so far during the plan period (2006/07 – 2019/20). This falls below the annualised requirement across the plan period of 1,360 dpa;
- Since the plan was adopted the average of 1,397 dpa completions is below:
 - The average dwelling requirement for the post-adoption period;
 - The phased delivery set out in Core Strategy Policy CS15; and
 - The dwelling requirement as set out in the ‘expected trajectory’ on page 87 of the Core Strategy.

6.35. For clarity, the data upon which these conclusions are based is provided in Figure 3.

6.36. Whilst the draft SDS has not yet been published, in the context of the estimated need and past delivery explained above, it is inevitable that there will be a step-change in the housing requirement within SGC in order to accommodate not only its needs (as derived from the Standard Method) but also its contribution towards the wider needs of the Bristol HMA. **Depending upon the base date of the Core Strategy**

selected, the average number of completions has been either 1,113 dpa or 1,397 dpa. This will need to rise to circa 2,122 dpa from 2021⁷.

Figure 3 – Housing Delivery in South Gloucestershire

Year	Dwellings Completed	Annual Requirement of the Local Plan	Dwellings Completed Post Adoption	Dwelling Requirement Post Adoption	Dwelling Requirement Based on Core Strategy Policy CS15 Trajectory	Dwelling Requirement Based on Core Strategy Expected Trajectory
2006/7	689	1,360				
2007/8	1,003	1,360				
2008/9	916	1,360				
2009/10	742	1,360				
2010/11	714	1,360				
2011/12	923	1,360				
2012/13	823	1,360				
2013/14	1,095	1,360	1,095	1,610	2,025	846
2014/15	1,224	1,360	1,224	1,610	2,025	1,665
2015/16	1,107	1,360	1,107	1,610	2,025	2,470
2016/17	1,630	1,360	1,630	1,610	2,025	2,733
2017/18	1,599	1,360	1,599	1,610	2,025	2,409
2018/19	1,573	1,360	1,573	1,610	1,687	1,789
2019/20	1,548	1,360	1,548	1,610	1,687	1,737
Average	1,113	1,360	1,397	1,610	1,928	1,950

Source: South Gloucestershire Council, Annual Monitoring Report (AMR) 2020

6.37. The latest housing trajectory published by SGC is attached to the Five Year Land Supply Statement 2021 (CD1.12). Notwithstanding the evidence of Mr Pycroft on the delivery of the sites identified within the trajectory, the Council's average projected rate of delivery over the six year period from 2021/22 to 2026/27 is 1,661dpa⁸. Based on the assumptions of the authority and my estimate of future housing needs for SGC, there would be a circa 461dpa shortfall in housing delivery during this period.

6.38. It will take a number of years for the plan-making and decision-taking processes to put in place new allocations and planning permissions which would contribute to addressing this shortfall and make up the

⁷ See paragraph 6.40

⁸ $(1,491 + 1,775 + 2,160 + 1,570 + 1,728 + 1,244) / 6$

required step-change in delivery. This would first require the publication of the draft SDS, its examination and then adoption; the preparation, examination and adoption a new Local Plan; the preparation, negotiate and grant of planning permission on new allocations; pre-commencement conditions to be discharged and reserved matters approval granted; and for these allocations to be serviced in preparation for the delivery of new homes.

- 6.39. Assuming the slippage in the SDS transfers onto the timetable for the Local Plan, and using the timelines in the Local Plan Delivery Programme 2022-2025 published in December 2021 (CD1.11), it will not be until mid-2024 at the earliest before the new Local Plan is adopted with allocations in place to address the emerging housing need. If planning applications are prepared immediately after the adoption of the Local Plan (which is very unlikely to be the case) and are submitted within a year then these will be with the LPA in mid-2025. The period from submission to determination and on to completion of the first homes has been subject of research by Lichfields in their Report Start to Finish (CD1.13). This research concludes that this period takes on average between 3.3 years to 8.4 years depending upon the size of site. It would therefore not be until towards the end of 2028 before smaller sites started to deliver and could be as late as the end of 2032 before the larger allocations produce new homes.
- 6.40. Until the draft SDS is published the start and end dates of the plan period are not known. The indications from the WECA Committee Papers from 19 June 2021 are that the housing evidence base covers the period 2021-41 and it is reasonable therefore to assume that this will represent the starting date for the plan. The updated housing requirement will therefore start from 2021 but with no realistic likelihood of supply forthcoming through the plan process until towards the end of 2028 at the earliest. In the interim and before the future allocations in these development plan documents are granted planning permission and start delivering new homes, housing delivery will need to take place outside of the adopted spatial strategy. Indeed, this will be the only means of (a) providing housing to meet the needs arising now which are not picked up by the adopted Core Strategy housing requirement; and (b) achieving the step change in the likely future housing requirement of the SDS.
- 6.41. In conclusion:
- a) Policies CS5 and CS34 of the SGC Core Strategy were specifically drawn up to restrict development in accordance with a housing requirement and spatial strategy which did not take into account the needs of the wider Bristol HMA.
 - b) The Inspector's conclusion that the Core Strategy was sound was contingent upon a review of the plan to be completed by the end of 2018. This was necessary to produce an up to date plan which responds to the wider housing needs of the Bristol HMA and "*ensure sufficient land is made available to meet housing needs to the end of the plan period*".

- c) Over three years have passed since the Inspector imposed deadline for the review of the Core Strategy and there is no strategic plan in place which distributes the housing requirement of the Bristol HMA between the three constituent authorities. Even if the current timetable is achieved and the new Local Plan adopted in 2024, given the average lead in times between development plan allocation and construction, the new allocations would have no noticeable impact on the supply of housing land during the plan period.
- d) Based on conservative assumptions, the housing requirement for SGC is estimated to be 2,122dpa for the SDS plan period.
- e) The current rate of delivery from the start of the Core Strategy plan period is 1,113 dpa and the rate since the Core Strategy was adopted in December 2013 is 1,397 dpa. These rates of delivery fall very considerably short of the likely requirement of 2,122 dpa for the authority contained in the SDS.
- f) The latest (albeit disputed) information from the authority is that an average of 1,661 dpa will be delivered over the next six years. Even on this measure, the rate of delivery would fall significantly short (461dpa) of the estimated requirement of 2,122 dpa once the SDS is adopted.
- g) Based on the research from Lichfields, a plan-led response to this shortfall through the implementation of new allocations in the replacement Local Plan is unlikely to deliver housing until 2028 on smaller sites and 2032 on the larger allocations.

6.42. For these reasons, I conclude that Policies CS5 and CS34 of the Core Strategy (a) are predicated upon a scale of development; and (b) enforce a spatial strategy through the application of settlement boundaries, which are no longer fit for purpose. Both failed to have proper regard to the needs of the wider Bristol HMA resulting in a housing supply shortfall which has not subsequently been addressed through joint plan making. Even if the joint plan-making process of the SDS goes smoothly – and there can be no guarantee of that – the necessary step-change in housing delivery will not occur until towards the end of the decade.

6.43. These policies are therefore *out of date* and as a consequence the ***tilted balance is engaged***. Planning permission should therefore be granted provided that the subsequent two limbed test contained in paragraphs 11(d)(i) and 11(d)(ii) of the Framework is passed.

Decision Making Framework if the Titled Balance is Not Engaged

6.44. If the tilted balance is not engaged then planning permission should be granted if the material considerations indicate that it is appropriate to support a departure from the adopted development plan. In such circumstances, the extent of the conflict with the development plan policies and the weight to be attributed



to them in the decision making process need to be balanced against any material considerations which indicate that the Proposed Development should be allowed.

6.45. This was precisely the framework which the case officer and senior officers used when they recommended in the report to the Executive that planning permission ought to be granted.

6.46. A decision made within the above frameworks must be cognisant of and have regard to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. Sustainability of the Proposals

- 7.1. Section 2 of the NPPF sets out the definition of sustainable development. Paragraph 7 explains that this involves *“meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*
- 7.2. Paragraph 8 of the Framework explains that the planning system has three overarching economic, social and environmental objectives. These objectives are independent but need to be pursued in mutually supportive ways so that net gains can be secured across all three. The proposed development would achieve net gains across each of these objectives and that, when taken as a whole, the development would constitute sustainable development. In so doing it would deliver a number of wider public benefits which are material considerations in the determination of this appeal. These benefits are summarised in the following section of this Proof.
- (a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure.*
- 7.3. The Proposed Development would deliver direct and indirect economic benefits to the town of Thornbury and the wider South Gloucestershire area.
- 7.4. Temporary direct economic benefits arise from the construction process and the employment of construction workers to deliver the development. An estimate has been provided within the socio-economic assessment that approximately 100 on-site jobs would be created over an eight year period and that a further 32 off-site jobs would be supported. This calculation is based upon the estimated construction value of the development.
- 7.5. An alternative measure using the methodology from the ‘The Economic Footprint of House Building in England and Wales’ Report (2018)⁹ commissioned by the Home Builders Federation puts the job creation figure much higher. This Report estimates that the development process including the supply chain supports between 2.4 and 3.1 jobs for each new home. The total of 1,428 - 1,845 jobs created would provide employment across a range of specialisms and would likely include the employment of apprentices.
- 7.6. Once operational, the development would sustain ongoing direct employment through the primary school and the retail / community hub. Indirect economic benefits would also arise as a consequence of the increased population within Thornbury due to the additional footfall that this would generate within the

⁹ Extract provided in Appendix NM7.

commercial premises in the town centre and elsewhere. It has been estimated that the Proposed Development would result in the creation of 167 direct and indirect jobs on a permanent basis.

7.7. The Proposed Development will also deliver infrastructure improvements necessary to support the development. This infrastructure includes the social and community infrastructure designed and planned to meet the day to day needs of residents, support community cohesion and reduce the need to travel. It also includes physical improvements to transport infrastructure, most notably a number of works designed to incentivise active travel (such as the improvements to the Butt Lane junction, provision of a new pedestrian crossing and the funding of improved cycle parking within the Town Centre) and works to the north bound slip road on junction 14 of the M5. The timely provision of infrastructure alongside development will contribute positively to the economic aspects of sustainability *“by identifying and coordinating the delivery of infrastructure”*.

(b) a social objective – *to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being.*

7.8. The proposed development would make a number of very substantial contributions to the social sustainability objective.

7.9. First, the development would deliver up to 595 new homes to meet the existing and future housing needs of the community. Whilst at this outline stage the mix and tenure of the homes has not yet been defined, on a development of the scale proposed it is reasonable to anticipate that a range of homes would be delivered to meet the diverse needs of the community.

7.10. The delivery of 595 new homes would provide a much needed boost to the supply of housing. This is of particular importance:

- for the reasons outlined in the preceding section that the housing requirement of the Core Strategy is not based upon an up to date assessment of housing needs across the full HMA; and
- at a time when affordability has become a significant challenge for many in society and the planning system has failed to support the delivery of sufficient housing to meet demand.

7.11. For the reasons explained in the preceding section of this Proof, this housing deliver would also come at a time when there is predicted to be a step-change in the housing requirement for SGC.

- 7.12. In this context, boosting the supply of housing land in the short-term, on a sustainable, available and deliverable site will be essential to manage the transition from the adopted Core Strategy to the new Local Plan and smooth out the significant step-change that is on the horizon.
- 7.13. Second, the development proposals include a commitment to a policy compliant 35% affordable housing. If the Proposed Development was to go ahead, up to a total of 208 households who are unable to access the open market would therefore have the opportunity to buy or rent their own home.
- 7.14. The delivery of affordable housing is a significant national priority and for good reason. Successive Housing Ministers have reiterated the priority attached to tackling the housing affordability crisis. As Mr Stacey has very eloquently explained in his evidence in a recent appeal where he acted for Barwood:

*“The former Housing Minister recently described the shortage of housing in the UK as possibly the largest scandal to hit the country in the past 30 years. McVey acknowledged at her RESI Convention speech in September 2019 that the housing crisis has led *“to a rise in renting and costs, and to a fall in home ownership which has destroyed the aspiration of a generation of working people.”**

“Since the mid-1990s, house prices have risen to 8 times, 10 times, 12 times, in some of the most expensive parts of this country 44 times the actual income of someone, that cannot be right”, claimed the Housing Minister.

Meanwhile in a House of Commons debate in September 2019 it was resolved that *this House notes with concern the ongoing shortage of housing and the housing crisis across England; further notes with concern the number of families in temporary accommodation and the number of people rough sleeping; [and] acknowledges that there are over one million households on housing waiting lists...*

In a speech on 4 March 2020 to the Planning Inspectorate, the current [now former] Housing Minister, Christopher Pincher stated that:

“I know a lot about the need for new and better homes. Because in my part of the world, houses for purchase and rent are appreciatively more expensive than in other parts of the West Midlands as we simply do not have enough homes.

There isn't a week that goes by without my constituents contacting me saying, “Chris, we just aren't able to buy or to rent the homes that we want to live in in this beautiful part of the world.” (emphasis added)

On a national level, in every scenario, against every annual need figure identified since the publication of the Barker Review in 2004, the extent of the shortfall in housing delivery in England is staggering and ranges from a shortfall of -1,105,490 to a shortfall of -2,635,490 homes over the past 17 years depending on which annual target actual housing completions are measured against. However, the true picture is that since 1969, the scale of the shortfall is so that under provision amounts to over 5.5 million homes. Not once in the last 50 years has the country built more than 300,000 homes. In January 2019, Shelter reported at least three million new homes will need to be built in England over the next 20 years to solve the housing crisis. This merely serves to further compound the acute affordable housing needs that the country is facing.”

7.15. Specifically in relation to SGC, according to the Government Live Table, there are a total of 4,024 households on the SGC Housing Waiting List. At the current time there is a total of only 32 social rented properties available within the whole of South Gloucestershire according to a search of the HomeChoice website¹⁰, only two of which – a two bedroom flat and a sheltered housing studio flat – are located within or close to Thornbury. It is also notable that the number of households on the Housing Waiting List has increased over the past three years despite SGC securing the greatest number of affordable housing gains during this period.

7.16. The scale of the waiting list represents a considerable challenge for SGC. As Mr Pycroft has concluded in Section 21 of his evidence:

“It would take over 13 years for the waiting list to be reduced based on the net average affordable housing net planning gain minus demolitions of 304 completed per year in South Gloucestershire over 2006 to 2021 as set out in table 21.5 below. This assumes that no new applicants would be added to the register in that time.”

7.17. Mr Pycroft also quotes extracts from the Council’s HomeChoice website in Section 21 of his evidence. The picture it paints is of a rather depressing state of affairs where *“most applicants on the Housing Register will have to wait a long time for re-housing and many will not be re-housed at all”*.

7.18. The evidence provided by Mr Pycroft expands upon the significance of the affordable housing challenges, explaining the considerable need that exists for new affordable housing within South Gloucestershire. In summary his conclusions are:

- a) that the latest evidence of need published by the authority indicates that the overall level of need between 2020 – 2035 is 18,455 dwellings or 1,230 dpa (see Table 21.4);

¹⁰ A website run by SGC to list all of the available properties from its partner registered landlords accessed on 23 February 2022.

- b) there has been net affordable housing completions averaging 315 dpa since the start of the Core Strategy Plan period (see Table 21.7). This is against an average need in the Core Strategy of 903 dpa. The delivery of affordable housing in South Gloucestershire has therefore fallen 6,736 dwellings short of the identified need in the Core Strategy from the start of the plan period (see Table 21.9); and
- c) over the next five years SGC anticipates the completion of 2,502 affordable dwellings (500 dpa) whereas Mr Pycroft consider that this will be 1,569 dwellings (314 dpa). This is considerably lower than the identified need of 1,230 dpa.

7.19. This aspect of social sustainability is arguably the most important feature of the appeal proposals. In the context of the level of need that exists within South Gloucestershire, every effort must be made to providing additional affordable homes. Previous delivery rates have failed to satisfy the demand and a boost to affordable housing delivery should therefore be a key priority of the authority.

7.20. Third, the proposals incorporate the provision of 5% self-build plots in accordance with Policy PSP42. The SGC website¹¹ provide the following data on self-build:

Figure 4 – Need for and Delivery of Self Build Plots in SGC

Period	Total Registrations	Part 1 Registrations	Plots Granted Planning Permission	Plot Duty	Plots Delivered Against Duty
2015-16	433	433	22	0	
2016-17	197	197	50	0	
2017-18	68	32	163	0	
2018-19	68	22	43	433	278
2019-20	109	48	29	197	
2020-21	151	58	33	32	327 ¹²
Total	1,087¹³	818¹⁴	340		

7.21. The first two columns of Figure 4 record the number of households on the Self-Build Register and those on the register with a local connection respectively. The third column provides the number of plots granted planning permission by SGC. These figures represent the latest requirement and the extent to which this

¹¹ <https://beta.southglos.gov.uk/self-build-and-custom-house-building>

¹² It is not clear why this figure is not the same as the total number of plots granted planning permission – 340.

¹³ This figure has been transposed across from the SGC website. The actual total is 1,026.

¹⁴ This figure has been transposed across from the SGC website. The actual total is 790.

requirement has been fulfilled. The figures in the final two columns relate to the legal duty of the authority to secure plots to match those on the register within a three year period.

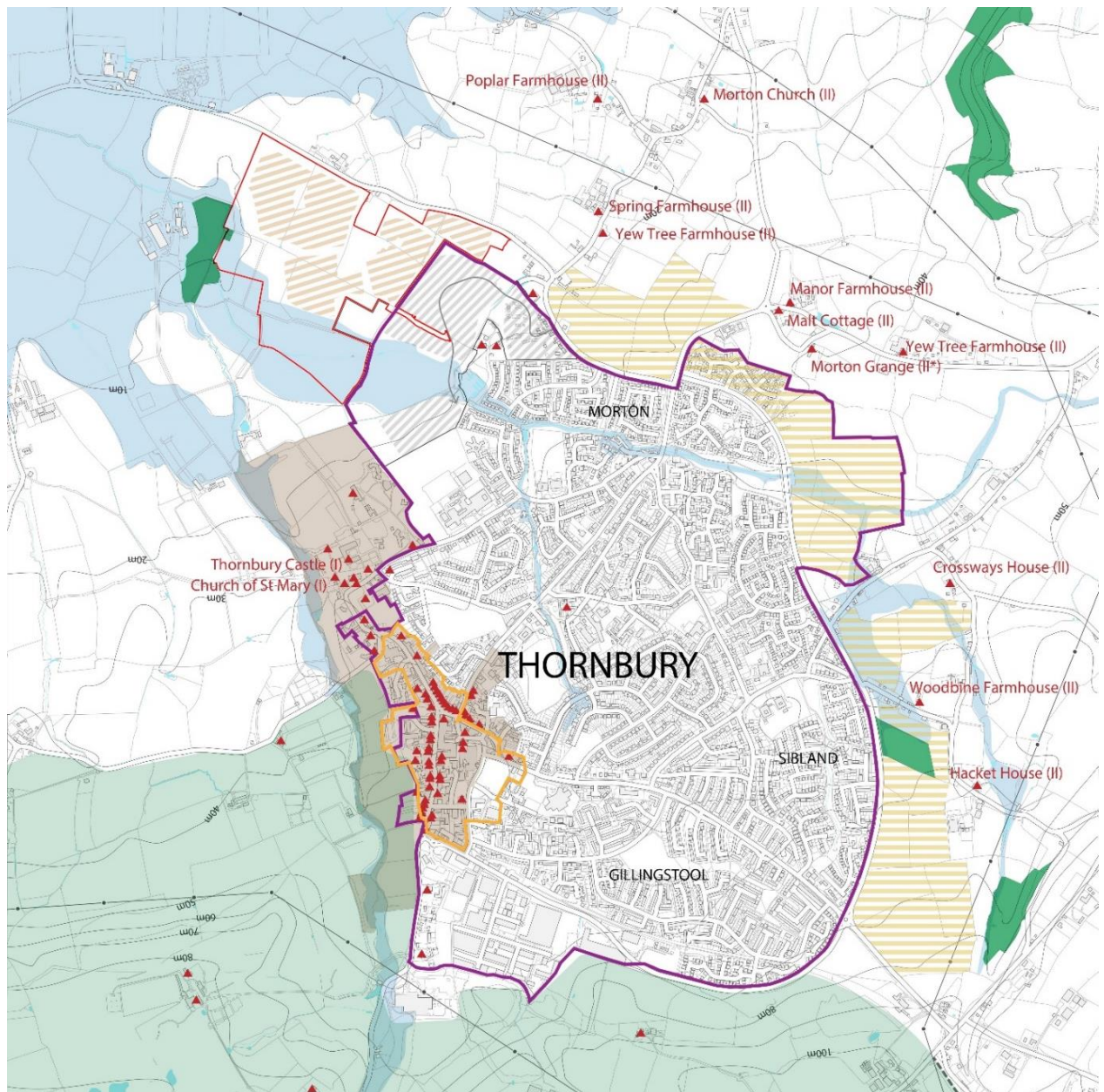
- 7.22. It is clear from the statistics provided on the SGC website that there is a demand for self-build housing plots and that this demand has outstripped the number of plots granted planning permission. Indeed, the number of plots granted planning permission still falls 93 short of the number of self-build registrations that appeared the year the register was introduced in 2015-16.
- 7.23. The appeal proposals would secure the delivery of 5% self-build plots, equating to 30 plots from the full 595 dwellings. This would make a significant contribution towards meeting the identified need and fulfilling the duty placed upon the authority to make provision for sufficient self-build plots within the authority area.
- 7.24. Fourth, the proposals would result in a high quality development which is well designed and safe. Very careful attention has been paid to the quality of development proposed within the outline application in the lead up to submission. Post-submission, through constructive and positive dialogue with the SGC urban design and landscape officers, refinements were made to the proposals and updated design information provided in the Design & Access Statement (CD7.1). These changes were welcomed and it was agreed by both the appellant and SGC that condition wording should be included within a future planning permission to capture the essence of the quality proposed and ensure that this is delivered at the reserved matters stage.
- 7.25. It is notable that not only did the SGC urban design and landscape officers withdraw their original concerns with the application, but the urban design officer also subsequently has asked the planning case officer when the application would be taken to committee as he would like to use the scheme as an example of high quality development (CD5.4).
- 7.26. The Design & Access Statement (including Addendum) provides all of the necessary details on design and quality.
- 7.27. Fifth, Thornbury is a sustainable settlement with a wide range of accessible services to meet and support the needs of the community's health, social and cultural well-being. The Sustainability Access Profile (February 2018) undertaken by SGC indicates that Thornbury has a "*high level of sustainable access to a range of services and facilities*", and that Thornbury acts as a destination for surrounding rural villages and settlements as a result of the "*extensive range of services and facilities*".
- 7.28. The evidence based for the (now defunct) JSP identified Thornbury as a suitable location for strategic growth; with the Authorities justification for its inclusion stating that "*as a market town, there is a good range of town centre services and facilities within Thornbury*" (Sustainability Appraisal Addendum, April 2018). Appendix D of the Sustainability Appraisal prepared for the JSP (November 2017) stated that Thornbury has a range of employment opportunities, and has good access to the strategic road network; including the Bristol North

Fringe for employment opportunities (p91); which incorporates Filton, Emerson's Green and Aztec West (WoE Economic Development Needs Assessment, 2016).

- 7.29. Furthermore, the SGC highways officers acknowledge in their consultation responses to the outline application (CD2.1) that the accessibility of the site to Thornbury Town Centre is broadly comparable to that of the permitted Cleve Park scheme which the Inspector at that appeal had considered acceptable. Overall therefore it can be concluded that Thornbury is a suitable and sustainable location to accommodate additional residential development and that the development is well located at Thornbury in order to benefit from good access to the services and facilities available.
- 7.30. Sixth, through the determination of the planning application it was identified that there is a localised deficit in education provision and community scale retail and community facilities within walking distance of the proposed development. In order to address this deficit the outline application proposals were amended during the determination period to incorporate land for a new primary school and a retail/community hub.
- 7.31. The retail/community hub has been deliberately positioned on the eastern part of the site, close to the Sustainable Transport Link through to the 'Park Farm' development. Park Farm, which was an allocation in the adopted Core Strategy (2013), comprises 500 homes (the majority of which have been constructed and are now occupied) but no community facilities. In order to maximise the wider sustainability benefits of the retail / community hub within the proposed development, it was agreed through the masterplanning process that this should be located at the 'heart' of the wider new community in the north-western part of Thornbury. In so doing the development would deliver a wider public benefit, providing not only community facilities for existing residents within easy walking distance but also a focal point for community activity and social interaction.
- 7.32. In summary therefore, the settlement of Thornbury itself is a sustainable location for residential development, the site has access to the services and facilities of the town via sustainable modes and where there is a localised deficit in education and community facilities, the development proposals address those needs through the development. This provision would be available to both the existing residents of the Park Farm development and the future residents of the Proposed Development thereby enhancing sustainable access to services and facilities.
- 7.33. Seventh, the benefits of the development described above, can only reasonably be achieved as part of the current planning appeal proposals. Options for growth at the town of Thornbury are severely limited by environmental and policy designations including the Green Belt to the south. For these reasons, we concur with the conclusion of the case officer in her email of 18 May 2021 to the Head of Strategic Planning and Housing that the Proposed Development represents the "*next logical area for growth*". Indeed, one can go further than that since the Proposed Development represents the only logical and sustainable location for

strategic growth at the town. This is demonstrated by Figure 5 below which shows the location of the appeal site in the context of the other permitted developments and constraints around Thornbury.

Figure 5 – Planning Permissions and Constraints Around Thornbury



Source: The Richards Partnership

7.34. Eighth, the development proposals incorporate substantial areas of public open space which complement the range of open space available in the locality and positively contribute to the overall amount of accessible

open space available to the local community. Totalling 17.93 ha, the open space to be delivered as part of the development incorporates recreational walking routes along the Pickedmoor Brook, natural green space, allotments, and a range of children's play spaces including LAPs, LEAPs and NEAPs. The green infrastructure network within the development provides safe, convenient and attractive active travel connections within the development and connects the functional open space provided to the benefit of biodiversity.

7.35. For the reasons set out above, the proposed development would accord with all aspects of the social sustainability objective and make a substantial positive contribution to address the needs of the community.

(c) an environmental objective – *to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

7.36. The substantial economic and social sustainability gains described above can be achieved whilst minimising harm to environmental sustainability objectives and maximising opportunities for environmental enhancement.

7.37. The two areas of land use 'harm' arising from the proposed development which are putative reasons for refusal are a function of:

- (a) the impact upon the significance of designated heritage assets – the Thornbury Castle group of buildings and St. Mary's Church as a consequence of changes to their setting; and
- (b) the loss of Grades 2 and 3a agricultural land.

7.38. The first 'environmental harm' is to heritage assets. It is common ground between the appellant and SGC that the development would cause less than substantial harm to heritage assets. A separate Proof of Evidence provided by Mr Crutchley outlines the significance of the relevant heritage assets and addresses the magnitude of the heritage impact arising from the proposed development. The conclusion of this evidence, that the magnitude of the harm is at the bottom end of the spectrum of less than substantial harm, feeds into the response to this reason for refusal provided in Section 9 of this Proof.

7.39. The second 'environmental harm' arises from the loss of Grades 2 and 3a agricultural land. This harm formed a reason for refusal and is addressed in the Section of this Proof entitled 'Response to the Reasons for Refusal'.

7.40. Other aspects of the proposed development will contribute positively to achieving the environmental sustainability objective. In so far as biodiversity is concerned:

- a) the Proposed Development provides mitigation for all identified effects and avoids significant harm to biodiversity.
- b) the scheme design supports enhanced biodiversity. For example, the SGC Ecology Officer notes, *“the scheme design positions a sizable quantity of semi-natural habitat (green infrastructure) adjacent to the ancient woodland of Park Mill Covert SNCI and the broadleaved plantation woodland surrounding the Pickedmoor Brook corridor to the south of the development. This is welcomed in that, as well as directly benefiting the wildlife on site (birds, bats, herpetofauna) by offering supplementary habitat, it concords with Natural England guidance (‘Ancient Woodland, Ancient Trees and Veteran Trees: Protecting Them From Development’, November 2018) and prevents development from intruding on the ecology of the woods and watercourse”*.
- c) the development will secure a net gain in biodiversity as required by Paragraph 174 of the Framework. This has been calculated as a net gain of 4% by the appellant’s ecologist using Metric 3.0 published by Natural England. A copy of this calculation is appended to this Proof at Appendix NM4.
- d) both the SGC Ecology Officer and Natural England are satisfied that the application proposals will not result in a likely significant effect on the qualifying features of the Severn Estuary SAC/SPA/Ramsar or the Wye Valley Woodlands or River Wye SACs either alone or in combination.

7.41. In respect of climate change resilience, not only would the proposed development itself be resilient, providing sufficient sustainable drainage attenuation to accommodate predicted future surface water flows (incorporating climate change), but it could also help ameliorate existing surface water run off that affects Oldbury Lane. Indeed, at the request of the Lead Local Flood Authority (LLFA) (see ESD J10.4), there is an opportunity for land in the north eastern corner of the site to be made available to the authority to provide surface water attenuation in order to reduce the effect of flooding on the highway. Overall the development could therefore have a net positive benefit in so far as flood risk and drainage is concerned having regard to the future effects of climate change.

7.42. Whilst only an outline planning application, the appellants have committed to the implementation of various measures which would enhance the sustainability of the built form. These measures include the provision of electric vehicle charging to every property with an off-street parking space and the commitment to provide 20% of the energy demands of the development from renewable sources in accordance with Policy PSP6 of the Policies, Sites and Places Development Plan Document (2017).

7.43. As explained above under the *social sustainability* heading, in broad locational terms the proposed development is well placed to provide access to a wide range of services and facilities without future residents needing to rely upon the private car. In response to a recognised deficit in local provision the proposed development also accommodates a new primary school and retail / community hub. Furthermore, through

the provision of the Sustainable Travel Link to the Park Farm development and onward pedestrian and cycle connections into Thornbury town centre, there will be a more direct and attractive route for active travel than simply following the same route as the private car. To encourage active travel, the appellant agreed to make a further financial contribution towards increased cycle parking within Thornbury town centre, which comprises an obvious destination for future residents within an easy cycle ride of the Site.

- 7.44. The scale of the proposed development will also support the delivery of a bus service through the site. This will have two benefits. First, it will directly meet the needs of the future residents providing opportunities for residents to access Thornbury town centre and further afield. Second, it will enable the delivery of an improved service to meet the needs of the residents in the Park Farm development. Park Farm is intended to have a bus service connection but it has proven challenging to deliver due to the routing of the service and projected level of patronage from the development in isolation. The Proposed Development and the enhanced patronage levels that this would bring substantially improve the viability of the service delivering a wider social and environmental benefit to the existing as well as future community. Further details, including a letter from the bus operator Stagecoach advising that the proposals would provide a sustainable service, are contained in the Transport Statement appended to my Proof at Appendix NM2.
- 7.45. Through the provision of active and mass transit solutions, the proposed development is very well placed to minimise the travel-related carbon emissions of future residents and the overall impact upon the environment.

8. Summary of the Public Benefits

8.1. The previous section addressed the sustainability of the development in the context of the three pillars described in paragraph 8 of the Framework. There I outlined a number of the economic, social and environmental benefits of the proposed development. In this section I have brought these benefits together in a summary and have explained the weight I consider should be attributed to each benefit.

a) Provision of Market Homes

Section 6 of this Proof explains in detail the housing shortfall that has built up over the duration of the Core Strategy plan period, while the evidence of Mr Pycroft demonstrates that there is a future housing land supply shortfall over the coming five years. Perhaps more pertinent to the weight of this public benefit however is the likely scale of the future housing need in SGC coming through the emerging SDS. This will require an immediate and very significant step-change in housing delivery; a step-change which the plan-making process will not be to address in the short-medium term. In this context, the provision of market housing should be afforded **substantial weight**.

b) Provision of Affordable Homes

The evidence of Mr Pycroft outlines the very severe shortfall in affordable housing in SGC. For many years this shortfall has persisted and with affordability worsening it has resulted in many households simply not being in a position to secure suitable accommodation for themselves and, in many cases, their families.

It is easy to look at the need for affordable housing as a numerical / statistical exercise, however, this is a very real and pressing issue which has a direct impact upon people's lives, health and welfare. There is an identified need for 18,455 affordable homes over the period to 2035 and currently 4,024 households on the housing waiting list looking for suitable accommodation in South Gloucestershire. The delivery of up to 208 new affordable dwellings as part of the development would provide homes for up to 208 households who are otherwise unable to meet their housing needs. In so doing it will make a significant contribution to addressing this need.

The Officers Report to Planning Committee claims to have attributed the provision of affordable housing 'significant' weight but it appears only to pay lip service to this extremely important consideration. I imagine it would be very difficult indeed trying to explain to a room of 208 households who are living in temporary, overcrowded or unsuitable accommodation that a lower end less than substantial harm to the setting of heritage assets is more important than their housing needs and the reason why they will remain on the housing waiting list. I make no apology for presenting the choice

in those terms as this is a key feature of the planning judgement which needs to be made in determining this planning appeal.

The delivery of affordable housing is a very important component of the appeal proposals and given the level of housing need in the authority area this public benefit should be afforded **very substantial weight**.

c) Provision of Plots for Self-Build Housing

Figure 4 in the preceding section of my Proof contains the statistics for the number of self-build registrations and permissions granted within SGC. At present there is a significant undersupply of self-build plots, to the extent that SGC is failing in its duty to provide a sufficient supply to satisfy the number that registered when the Self-Build Register was first introduced in 2015-16. For this reason the delivery of 5% self-build housing should be afforded **moderate weight**.

d) Enhanced Walking and Cycling Opportunities

The appeal proposals include a number of measures designed to enhance the attractiveness of walking and cycling from the appeal site to services and facilities. These include a financial contribution toward enhanced cycle parking within Thornbury Town Centre and a new pedestrian crossing on Gloucester Road. These improvements will be available for the wider public and as such represent a wider benefit of the development. This should be afforded **limited-moderate weight**.

e) Local Highway Improvement Works

The proposals include local improvement works to the Butt Lane / Morton Way / Gloucester Road including a new signalised junction which will improve the safety for those residents of the new development to the north of Thornbury. We agree with the conclusion of the planning officer at paragraph 5.69 of their Report to Committee where they attribute this benefit **moderate weight**.

f) Strategic Highways Improvement Works

In addition to localised junction improvements, the development proposes improvement works to Junction 14 of the M5 which will extend the capacity of the north bound slip road and reduce the number of stationary vehicles on the carriageway at peak times. As recognised by the planning officer at paragraph 5.69 of their Report to Committee, these works go beyond mitigating the impact of the development and “*will provide a wider benefit beyond the development*” in supporting the safe operation of Junction 14. They have been endorsed by National Highways, whose agreement to these works is confirmed in the SoCG they have agreed with the appellant’s highways consultant. Unlike



the officers who attribute this benefit a moderate weight, as the works will enhance the safe operation of the strategic highways network, I consider that this benefit to be of **substantial weight**.

g) Ecology Protection and Enhancement

It is common ground that the development would result in the protection of biodiversity. Not covered in the Planning SoCG however is the enhancement to biodiversity as a result of the provision of open space and new habitat creation. There is not a specific policy requirement for a minimum enhancement, however, the appellant has appointed a suitably qualified ecologist to undertake an assessment based on the Natural England Metric 3.0. This calculation, a copy of which is appended to my Proof at Appendix NM4 concludes that the development would deliver a 4% biodiversity net gain (BNG). This BNG is considered to have **limited-moderate weight**.

h) Provision of Public Open Space

The appeal proposals contain a considerable quantum of open space which, for most typologies, exceed the standards required to comply with Policy CS24. Figure 6 below sets out the position.

Figure 6 – Open Space Provision in the Development

Open Space Typology	Minimum spatial requirement to comply with policy CS24 (sq.m.)	Spatial amount proposed on site (sq.m.)	Surplus / Shortfall in provision (sq.m.)
Informal Recreational Open Space	16,422	44,000	+27,578
Natural and Semi-natural Open Space	21,420	120,800	+99,380
Outdoor Sports Facilities	22,848	0	-22,848
Provision for Children and Young People	3,570	3,400	-170
Allotments	2,856	3,000	+144

This demonstrates that there is significant over provision of ‘informal recreation open space’ and ‘natural and semi-natural open space’ and a minor over provision of ‘allotments’. Provision of children’s play will comply with the standards with a minor adjustment to the proposals which can be addressed at the reserved matters stage. The only shortfall of provision is against the provision of ‘outdoor sports facilities’. It is Barwood’s position that a suitable number of playing pitches is available within a short distance of the site to meet this need, however, if the Inspector disagrees with this conclusion, a financial contribution can be made through the Section 106 agreement to address this deficit.

At the present time public access to the appeal site is limited to the public rights of way. If the development were to go ahead this would open up far greater land which is managed and maintained for public use. The substantial provision of public open space within the 'informal recreation open space' and 'natural and semi-natural open space' over and above that required by policy should be afforded **moderate weight**.

i) Economic Benefits

The development will secure economic benefits through the creation of construction jobs, operational jobs, increased expenditure within the local economy (at a time when the town centre is struggling¹⁵), CIL revenue and Council Tax Revenue. We agree with the conclusion of the planning officer in their Report to Committee which states at paragraph 5.159 that the combination of economic benefits attracts **moderate weight**.

j) Public Transport Improvements

The statement by Mr Thorne appended to my Proof at Appendix NM2 summarises the position in respect of public transport improvements which was agreed through the submission of further information during the determination period for the planning application. In summary, as part of the Park Farm development a financial contribution was paid to SGC to support the provision of a bus service to serve the development, however, it has not been possible to attract an operators to provide the service. The Business Case submitted as part of the planning application demonstrates that the addition of the new residents from the proposed development and the additional patronage that this would bring would result in a viable and attractive service for a private operators. This has subsequently been confirmed by Stagecoach, one of the potential service providers. The provision of the bus service through the appeal site and on into the adjacent Park Farm development would therefore enhance the sustainability of the location for residents beyond the development. This benefit should be afforded **moderate weight**.

k) Community Facilities

The community facilities contained in the appeal proposals have been strategically located towards the eastern edge of the site, adjacent to the sustainable transport link so that they are centrally placed for access from the wider north west Thornbury area including Park Farm. The provision of community facilities which are conveniently accessible to not only the future residents of the development but also the wider local community will provide a wider public benefit of **moderate weight**.

¹⁵ see paragraph 9.42 onwards.



I) Potential for Drainage Improvements on Oldbury Lane

During the determination period for the planning application a request was made by the drainage officer at SGC for the use of an area on the northern boundary of the application site for additional drainage to provide improvement works to the drainage on Oldbury Lane. The land is currently shown on the plan as informal open space with a footpath running diagonally across it (see plan ref 27982-BL-M-03 attached to the draft Unilateral Undertaking). It was agreed by Barwood that should the authority wish to use this land for drainage purposes it could be made available for a nominal sum as part of the Section 106 agreement for the application. There is a substantial over-supply of informal green space within the planning application and the loss of this relatively small area would have a *de minimis* impact.

The email correspondence attached at Appendix NM6 confirms that SGC remain interested in this area and wish to reserve the opportunity to acquire it for highways drainage purposes in the future. This opportunity has been incorporated into the draft Unilateral Undertaking accordingly.

The opportunity this the development provides to enhance highways drainage should be attributed **limited to moderate weight** as a public benefit.

9. Response to the Reasons for Refusal

9.1. My analysis of the main issues addresses the putative reasons for refusal in turn.

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

9.2. Mr Crutchley has undertaken an assessment of the heritage impacts associated with the proposed development and, as explained in his evidence, has concluded that the development would result in 'less than substantial harm' to the setting of Thornbury Castle and the nearby St. Mary's Church. By virtue of the less than substantial harm to these two assets there would be a consequential harm of the same magnitude to Thornbury Conservation Area. Mr Crutchley does not agree with the Council's reason for refusal that there is any harm to the Sheiling School.

9.3. National planning policy in Chapter 16 of the Framework and development plan at Policy PSP17 adopt a broadly consistent test to be applied in the determination of planning applications which would result in 'less than substantial harm' to heritage assets. That test requires the harm to heritage to be weighed against the public benefits of the proposed development.

9.4. The test must be performed in a manner consistent with the context of Section 66(1) of the Listed Building Act 1990. However, the Court of Appeal Decision in *Mordue*¹⁶ confirmed that in most circumstances, following the process prescribed in the Framework would be sufficient to discharge the statutory duty under Section 66.

9.5. To perform the heritage test it is necessary to first establish where the level of harm sits within the spectrum of 'less than substantial'. For that I defer to the expert opinions of the heritage specialists.

9.6. Four heritage experts that have assessed the application proposals to date:

- Rob Nicholson – SGC Conservation Officer;
- Tim Murphy – Essex County Council Place Services Team;
- Ben Stevenson – BSA; and

¹⁶ Jones v Mordue (Court of Appeal) [2015] EWCA Civ 1243, paragraph 28 – CD4.2

- Andrew Crutchley – Environmental Design Partnership.
- 9.7. The broad consensus amongst three of the experts is that the proposed development would result in less than substantial harm to heritage assets. Whilst all three are satisfied that the magnitude of the harm is at the bottom end of the 'less than substantial' spectrum, it varies in the heritage assets whose significance is affected.
- 9.8. In contrast to the other three experts, the consultant appointed by SGC to provide a second opinion on heritage matters at the request of the Executive Members concluded that there would be no harm to heritage assets. Whilst I go on to consider the proposals against the test in paragraph 202 of the Framework (due to the less than substantial harm identified by the other experts), the opinion of the Essex County Council Place Services Team cannot be dismissed as an irrelevant outlier in the summary fashion it is in the Officer's Report to the Planning Committee. The assessment of whether a development would cause harm to the significance of a heritage asset is, by its nature, based to an extent upon a subjective judgement. The conclusion of a qualified heritage expert that the proposals would result in no harm is material in that it reinforces the conclusion of the other experts that the magnitude of harm must be so close to the bottom of the 'less than substantial' spectrum that it can, in the eyes of one expert at least, be dismissed entirely.
- 9.9. Notwithstanding the conclusions of the Essex County Council Place Services Team, I go on to judge the appeal proposals against the test set out in paragraph 202 of the Framework and on the basis that the harm to heritage is at the lower end of the spectrum.
- 9.10. The second element of the test requires a judgement to be made on the weight to be attributed to the public benefits that would come about as a consequence of the proposed development.
- 9.11. The preceding section of my Proof of Evidence outlines the wide range of public benefits that are associated with the Proposed Development. These include:
- Provision of Market Housing;
 - Provision of Affordable Housing;
 - Provision of Self-Build Housing;
 - Enhanced walking and cycling opportunities;
 - Highway improvement works to local junctions and the strategic road network;
 - Ecological protection and enhancement;

- Provision of accessible public open space;
- Economic benefits in the form of job creation and increased spend at local shops and services;
- Public transport improvements serving the residents of the wider area;
- Provision of community facilities positioned with good access for residents of the wider north west Thornbury area; and
- Potential for drainage improvement works on Oldbury Lane.

9.12. In my professional judgement and taking into consideration the 'special regard'¹⁷ and 'great weight'¹⁸ to be afforded to the preservation and conservation of heritage assets, the cumulative effect of these public benefits clearly outweighs the low level of heritage harm which would arise as a consequence of the development. Thus the internal heritage balance of paragraph 202 of NPPF is plainly passed and the outcome of this balancing exercise provides the 'clear and convincing justification' as required by paragraph 200 of the NPPF.

9.13. This identified harm and the resultant conflict with policy should only be afforded only **limited weight** in the planning balance.

B) 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 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

9.14. This reason for refusal appeared somewhat out of the blue. As explained in the background section, we had been working constructively with the planning case officer over an extensive determination period and not once was the issue of the loss of BMV raised as a concern by officers. It was also not an issue that was raised by any of the officer in the Report to Executive in April 2021.

¹⁷ Section 66(1) Planning (Listed Buildings and Conservation Areas) Act 1990.

¹⁸ Paragraph 199 of the NPPF.



9.15. There has been a number of housing applications and appeals around Thornbury in recent years and on no occasion has the presence of BMV land been considered a reason to refuse the grant of planning permission. For context, I have explained below how BMV has been addressed in the determination of the applications and appeals:

Figure 7: Summary of BMV in other applications and appeals at Thornbury

Site	Approach to BMV
<p>Land at Morton Way PT12/2395/O</p>	<p>The application was the subject of an appeal against the non-determination of the planning application. In the Officer's Report to Planning Committee the report addresses the loss of BMV under the heading of 'other matters'. At paragraph 5.51 the officer concluded that:</p> <p><i>"Concerns have been raised relating to the loss of agricultural land. The site is Grade 3a agricultural land. Paragraph 112 of the NPPF states that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. It further states that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poor quality land in preference to that of a higher quality. The NPPF defines grade 3a as one of the best and most versatile agricultural land. However, the loss of 22 ha of agricultural land <u>is not considered significant</u> and a refusal for reason based on this could not be evidenced in this instance."</i> [emphasis added]</p> <p>The loss of BMV was not therefore one of the 10 putative reasons for the refusal of the planning application.</p> <p>The Inspector's Decision on the appeal makes no reference to the loss of BMV in his assessment of the harm arising from the proposed development.</p>
<p>Cleve Park PT16/3565/O APP/P0119/W/17/3182296</p>	<p>The Officer's Report to Committee on the Planning Application concluded that there would be some harm as a result of the loss of BMV, however, that it would involve proportionately less BMV than other recently approved developments around Thornbury. It also notes that the:</p> <p><i>"Agricultural Land Quality Appraisal submitted in support of the scheme states that Thornbury is surrounded by high quality agricultural land such that any development around the town is likely to lead to the loss of best and most versatile land"</i>.</p> <p>There were three reasons for the refusal of the planning application, none of which related to the loss of BMV.</p>



	<p>On this issue and in granting planning permission, the Inspector concluded at paragraph 53 of his Decision that:</p> <p><i>“The development would result in the loss of some best and most versatile (BMV) agricultural land. About two-thirds of the site is BMV land. However, most of the land around Thornbury is in agricultural use and, as set out in the Officers’ Report, any development around the town is likely to lead to some loss of BMV. <u>No economic argument has been put forward to suggest any significant harm arising from any conflict with paragraph 112 of the Framework.</u>” [emphasis added]</i></p>
<p>Land at Post Farm PT15/2917/O</p>	<p>The only reference to the loss of BMV in the Officer’s Report to Committee is under the consultation section where it was confirmed by Natural England that they do not wish to make any detailed comment on the matter as the loss is less than 20ha. The officer makes no reference to the loss of BMV in their consideration of the issues relevant to the determination of the planning application.</p> <p>The planning application was approved at SGC Planning Committee.</p>
<p>Land West of Gloucester Road PT16/4774/O</p>	<p>The application proposals involve the loss of 4ha of BMV land, approximately half of the application site. The officer concluded in their Report to Committee that the loss of this land in a harm to be attributed limited weight alongside five other ‘harms’ in the planning balance. Notwithstanding, the officer recommended that planning permission was granted and this recommendation was accepted by the Planning Committee.</p>
<p>Land at Crossways PT19/8659/O</p>	<p>All of the land within this application is classified BMV with over two thirds falling within Grade 2.</p> <p>Paragraph 5.5 of the Officer’s Report to Planning Committee states that this is a harm, however, this is outweighed in the overall planning balance by the benefits of the development – delivery of 80 dwellings, 1ha of employment land and CIL receipts. The recommendation of the officer was accepted by the Planning Committee.</p>

9.16. In all of these five cases the loss of BMV has either been dismissed out of hand or afforded only limited importance and then outweighed in the planning balance. Notwithstanding, we do acknowledge that the loss of BMV is a reason for refusal and have therefore addressed the implications of and weight to be attributed to this below.

9.17. The Development Plan context for this reason for refusal is provided in Policies CS9 (Managing the Environment and Heritage) and Policy CS34. The former, Policy CS9 states:

“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.”

9.18. The latter, Policy CS34 states that:

“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: ...

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”.

9.19. National policy in the Framework is a material consideration. This states that paragraph 174 that:

“Planning policies and decisions should contribute to and enhance the natural and local environment by: ...

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland”; [emphasis added]

9.20. The PPG adds nothing further in terms of the interpretation of national policy, repeating the requirement that *“decisions should take account of the economic and other benefits of the best and most versatile agricultural land”*¹⁹.

9.21. The presence of BMV is therefore a consideration which it is necessary to take into account in the planning balance, but not one that has a discrete policy test or internal balance exercise to be undertaken with the potential to disengage the tilted balance. I now go on to assess whether the loss of BMV is significant and then, establish the weight to be attributed to it in the planning balance.

Is the loss of BMV significant?

9.22. The evidence of Mr Kernon in his statement appended to my Proof of Evidence indicates that the loss of BMV on the site should be categorised at ‘significant’. In the absence of a specific definition this conclusion is reached by reference to the Natural England threshold for consideration of planning applications. This is

¹⁹ Paragraph: 001 Reference ID: 8-001-20190721

not a universally adopted threshold and it is notable that the Inspector at the Cleve Park decision concluded that the loss of 22ha of BMV was not significant in approving that appeal (see Figure 7).

9.23. The economic loss associated with development on BMV land substantiates the argument that the scale of loss would not be significant. For this we have further assistance again from Mr Kernon. Mr Kernon's advice at paragraph 4.11 of his Statement is that the BMV quality of the land:

- has a crudely-estimated economic benefit in 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.

9.24. This economic benefit is considered to be 'limited'²⁰.

The Weight to be Attributed to the Loss of BMV

9.25. As has been the case with all of the other applications and appeals around Thornbury I consider that only limited weight should be attributed to the loss of BMV as a consequence of the proposed development.

9.26. There is a significant and pressing need for housing in SGC, a need which exists now but will only become further pronounced when translated into a step-change housing requirement in the emerging Local Plan (see Section 6). Meeting this need for housing will inevitably require the loss of BMV. There are four reasons why I come to this conclusion.

9.27. First, when plan-making, despite the preference for significant development to take place on non-BMV land (Framework paragraph 175), in practice this consideration is afforded very limited weight in determining the most suitable and sustainable locations for development through the plan-making process. There are myriad considerations which need to be factored into the selection of land for development and decisions need to be made which prioritise these considerations according to their relative importance.

9.28. This can be observed in how SGC selected locations for development historically through the local plan and the Submission Draft JSP. The local plan allocated two sites at Thornbury - Park Farm and Morton Way - despite both being predominantly BMV. The decision was evidently taken at that time that these locations were to be preferred to other options despite the quality of the agricultural land.

9.29. The Submission Draft JSP proposed a total of 12 Strategic Development Locations (SDL) across the West of England area, including five within South Gloucestershire. The SDLs selected by SGC for inclusion within the Submission JCS were chosen because the authorities considered that, in balancing all considerations,

²⁰ See paragraph 7.7 of Mr Kernon's Statement.

they were the most suitable and sustainable locations for strategic scale development. This was despite the fact that a number of these SDLs would have resulted in the loss of BMV²¹.

9.30. Through the preparation of recent development plans in South Gloucestershire the decision appears to have been taken that sustainability and other considerations outweighs the loss of BMV land. Whether development sites come forward through the development plan process or through 'speculative' planning applications, this is highly unlikely to make a significant difference to the amount of BMV land that will be needed to accommodate growth.

9.31. Second, at a localised, settlement-scale it is very evidently the case that future growth of the town would require the loss of BMV. Mr Kernon's statement includes an Agricultural Land Classification map of Thornbury (Insert 6) extracted from the MAGIC website. Any further growth at Thornbury which is either not in the Green Belt or immediately adjacent to the West of Thornbury Castle and St. Mary's Church would necessitate the loss of BMV.

9.32. As explained in Figure 7 above, all of the schemes that have been permitted around Thornbury in recent years either locally by the local planning authority or on appeal have involved the loss of BMV land. The one major planning application for residential development which has been refused locally and at appeal is on Land South of Gloucester Road²². This is the one application which was on land that appears to be exclusively Grade 3b and therefore non-BMV. Whilst it was not therefore refused on the basis that it would result in the loss of BMV there were 13 reasons for refusal. I raise this to reinforce two points:

- that BMV is not the only or even a predominant planning consideration; and
- there is no evidence of other sites at Thornbury being acceptable for development. On the contrary, the only scheme that has been put forward was refused on other planning grounds and subsequently dismissed at appeal.

9.33. Third, the reason why previous development plans have proposed to allocate BMV land and why the use of such land around Thornbury is inevitable in the future is a neatly summarised by Mr Kernon at paragraph 5.6 of his statement where he states that:

"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."

²¹ See paragraph 7.11 of Mr Kernon's Statement.

²² SGC Application reference - PT17/2006/O; PINS Reference - APP/P0119/W/17/3189592

9.34. Fourth, the loss of 24.5ha of BMV, whilst technically defined as ‘significant’, will have a very limited impact upon the overall amount of BMV available in SGC. As Mr Kernon has summarised in Table 2 of his evidence, there is approximately 18,656ha of BMV across the authority area. The loss of 24.5ha of this must be considered in this wider context.

Conclusion

9.35. Whilst the loss of BMV is, by reference to the measures prescribed by Natural England significant, this would have a ‘limited’ economic impact and is inevitable in meeting the housing needs of the authority area. Overall I therefore conclude that this harm should be afforded only **limited weight** in the planning balance; a conclusion consistent with many of the decisions made around Thornbury in recent years.

C) The proposal development is speculative in nature and would result in development beyond the defined settlement boundary of Thornbury in the open countryside, beyond the scale of development considered appropriate and provided for to revitalise the town centre and strengthen community services and facilities in Thornbury. Therefore, the proposal is contrary to policies CS5 and CS34 of the adopted South Gloucestershire Core Strategy.

9.36. There are a number of component parts to this reason for refusal which I find it helpful to unpack before then responding to each in turn. The objections to the development appear to be that the development:

- a) is speculative in nature;
- b) would result in development outside of the existing settlement boundary, contrary to Policy CS34 of the Core Strategy; and
- c) would result in a greater scale of development than that required to revitalise the town centre and strengthen community services and facilities, contrary to Policies CS5 of the Core Strategy.

Speculative in nature

9.37. The appeal proposals are on land not allocated for development; that is a fact. If the Council would like to characterise the development as ‘speculative’ on that basis I have no objections. However, the fact that the development is ‘speculative’ in nature is not in itself relevant to the determination of the appeal. The Council has confirmed at CMC that it does not maintain a prematurity argument in respect of the appeal proposal in regard to any part of the emerging Development Plan.

9.38. The rationale for this planning appeal is that there is an insufficient supply of land for housing and that the spatial strategy distributing development and the allocations which fit within that spatial strategy are out of date. The replacement Local Plan through which new allocations will be made is unlikely to be adopted until

Summer 2024 at the earliest; 'speculative' development is therefore necessary in order to address the shortfall in the meantime and manage the significant step-change in the housing requirement which is on the horizon. In this context, rather than a 'speculative' development being a reason for refusal, it ought to have been welcomed by the authority as a means of addressing an immediate and pressing need for housing.

Development outside of the existing settlement boundary contrary to Policy CS34

- 9.39. The adopted settlement boundary for Thornbury reflects the spatial strategy and proposed distribution of development established through the Core Strategy. It had originally been the Council's intention to allocate additional land for development through the PSPDPD²³, however, the PSPDPD which was eventually adopted contained no development allocations and did not therefore alter the settlement boundary. No further changes to the settlement boundary are proposed in the referendum version of the Thornbury Neighbourhood Plan. The settlement boundary, which is drawn tightly around the built up area, therefore offers very limited opportunities for residential development at Thornbury in a manner consistent with the development plan. Indeed the recently published Phase 2 Consultation on the new Local Plan identifies land within the settlement boundary for only up to 15 dwellings.
- 9.40. As I have explained elsewhere in my Proof, the delivery of development has consistently fallen short of the scale of housing required in the Core Strategy. Over the time since the Core Strategy was adopted there has, as a consequence, been a number of housing sites outside the settlement boundary of Thornbury which have been supported either locally through the determination of planning applications or at appeal. This has been judged to be necessary to maintain a sufficient supply of housing.
- 9.41. For the reasons explained in Section 6 of this Proof of Evidence, the most important policies of the Local Plan are out of date. Policy CS34 is one such policy and particularly relevant in this respect as it seeks to restrict development outside of settlement boundaries which were established in the context of an out of date housing requirement. Policy CS34 should therefore only be afforded **limited weight**.

Would result in a greater scale of development than that required to revitalise the town centre and strengthen community services and facilities in accordance with Policy CS5

- 9.42. The inference from this component of the reason for refusal is that the scale of development at Thornbury should be restricted to a scale required to revitalise the town centre and strengthen community services and facilities. This is not actually what Policy CS5 states. Criterion (3) of Policy CS5 states that "*at Thornbury, new development will be of a scale appropriate to revitalise the town centre and strengthen community services and facilities*". There is no suggestion in the policy or supporting text that the settlement is not suited to a scale of development which would exceed the scale envisaged at the time of the Core Strategy. Nor

²³ See paragraph 55 of the Core Strategy Inspector's Report (CD1.2)

should there be. Indeed, it is only logical that a greater increase in the number of local residents would add further footfall to the commercial premises on the High Street.

- 9.43. The fact that at the time of the Core Strategy it was predicted that 500 dwellings would be sufficient to achieve this policy objective is no reason not to revisit the logic and rationale for this before blindly applying the policy in the determination of planning applications over eight years after the Core Strategy has been adopted.
- 9.44. In the time since there have been major changes effecting the vitality of high streets across the country, including Thornbury. The response of Government has been to introduce funding through the 'Future High Streets Fund' and further local sources of funding are available such as the WECA Investment Fund. In response to the specific challenges facing Thornbury Town Centre, a recent application was made for Feasibility and Development Funding²⁴ to investigate potential improvement works. This application explained that:

"Before the Covid-19 pandemic, the UK's high streets were struggling; footfall was declining and has fallen each year for the past decade. The increase in out-of-town centres, rising overheads and changes in consumer behaviour, particularly online shopping were all contributing to difficult trading conditions.

Retail makes up 5.1% of the UK GDP and the three national lockdowns and tier 4 restrictions have seen large sections of retail closed. In 2020 retail sales fell 1.9%, the largest fall since records began. The pandemic has also seen an acceleration of online shopping with 33.9% of all retail spending in 2020 on line and the trend continuing in 2021.

As part of the full business case an ongoing revenue resource will be included to trial a new approach to supporting high streets and investment in them alongside the capital public realm works. This additional support and engagement will seek to enhance footfall and improve the economic prosperity of the town whilst the capital works are delivered. This aims to deliver maximum support and benefit to the town."

- 9.45. The above application comes in spite of a far greater scale of development having been permitted and delivered in Thornbury than envisaged in the Core Strategy and it is evidently not the case that the addition of 500 dwellings at the town has revitalised the town centre. Indeed, the latest consultation on the Local Plan proposes that *"development should enhance the vitality and character of the town centre by: ... supporting the regeneration and economic health of the town centre and community facilities within it"*.
- 9.46. A further increase in the population at Thornbury such as that which would arise as a consequence of the appeal proposals, would inevitably increase footfall and local expenditure. This was estimated in the Socio-

²⁴ <https://www.westofengland-ca.gov.uk/wp-content/uploads/2021/06/Feasibility-Funding-Application-Thornbury-High-Street.pdf>.

Economic Chapter of the Environmental Statement (ESD J13.6) as contributing circa £944,444 per annum to the local economy; a not insignificant contribution to the vitality of the Town Centre.

9.47. For these reasons, Policy CS5 is not only considered to be out of date in the planning sense for the reasons explained in Section 6 of my Proof, but it is *out of date* in the plain English sense that the rationale it gives for the scale of housing proposed at Thornbury is no longer robust. For these reasons I consider this reason for refusal should be given only **limited weight** in the planning balance.

D) In the absence of a Section 106 legal agreement to secure the following:

- **On-site public open space and a contribution towards off-site sports facilities**
- **The delivery of self-build or custom plots**
- **Affordable housing of a suitable tenure mix and unit types**
- **Highway works and Travel Plan**
- **Land for Education purposes**

The proposal fails to provide sufficient mitigation to address the impacts of the development and is contrary to policies CS1, CS6, CS8, CS18, and CS24 of the South Gloucestershire Local Plan Core Strategy adopted 2013, the Affordable Housing and Extra Care SPD 2014, and Policy PSP 11 of the Policies Sites and Places Plan adopted 2017.

9.48. It is common ground between the appellant and SGC that this reason for refusal is capable of being overcome through the provision of a Section 106 deed of unilateral undertaking.

9.49. A draft unilateral undertaking is in circulation, the Council's standard s106 drafting has been used and it is anticipated that the substance of all obligations will be agreed between the parties with the possible exception of the financial contribution towards playing pitch provision and the proposed inspection fees for the open space.

9.50. The inspection fees payable for open spaces are calculated by the Council as being £52 per 100sqm. Given the quantum of open space at the Development the Council's estimate of the total inspection fee is circa £94,000. The appellant is concerned that this does not meet the CIL Reg 122 test of reasonableness in scale and kind. Based upon a price of £94,000, this would equate to the annual salary of a person equivalent in seniority at the Council to the Head of Legal Services and it is not considered that somebody of that seniority would inspect the POS, nor that they would spend an aggregated total of a whole year inspecting the POS at the site, even if it is delivered on a phased basis. The Council's position is that this is the standard inspection fee but the appellant has asked the Council to calculate a bespoke and justified figure based upon transparent assumptions of the pay grade of person would inspect the POS and how much time they would spend inspecting it (see correspondence in Appendix NM9).

- 9.51. In respect of the offsite open space contribution the Council has sought the sum of £1,199,154.43 and has named a range of offsite facilities upon which it might be spent. The applicant does not consider that any offsite open space contribution is justified as there is no need locally (at Thornbury) for the delivery of additional Outdoor Sports Facilities.
- 9.52. Whilst the Council has listed a large number of local offsite sports facilities which might benefit from the monies (some of which appear to be private facilities), it has not identified any shortfall in local provision and has not provided a scheme for improvement of any specific facility, nor costed that scheme or demonstrated how and when it can be delivered. The Council has instead applied a formula based approach to arrive at a contribution request and seeks total freedom as to how to spend it. The Council is permitted to pool contributions but something more than this is needed to meet the CIL Reg 122 test of necessity.
- 9.53. Furthermore, the published evidence available on the Council website offers no support for the conclusion that there is a need for additional outdoor sports facilities. The latest Playing Pitch and Sports Facilities Strategy commissioned by SGC from Knight, Kavanagh & Page Ltd is dated September 2020. The 'Headline Findings' of the study at Paragraph 1.3 are that there is no current demand shortfall for any sports pitches at Thornbury. There is a future demand for additional youth football pitches.
- 9.54. Due to the timing of the Study however it did not take into account the additional pitches being provided as part of the Park Farm development, adjacent to the appeal site. That development includes sports pitches which will be available for public use which do not appear to have been included in the baseline of the 2017 audit of facilities. With these additional pitches there is a significant surplus of pitches at Thornbury and provision of a recently constructed, new facility within walking distance of the appeal site.
- 9.55. In the absence of any evidence of a shortfall or an explanation of how the money would be spent, there is no means of judging whether it is necessary. The appellant intends to include these requested obligations in the section 106 deed of unilateral undertaking subject to a "strike out" clause which allows the inspector the power to strike out those contributions if the supporting evidence is not provided by the Council. The appellant has fairly identified its concerns for the Council and asked the Council to identify a bespoke contribution and justification to meet the tests of CIL Reg. 122.

10. The Planning Balance and Conclusions

- 10.1. The Proposed Development complies with the vast majority of the policies within the development plan²⁵ and, as is demonstrated by the latest consultation responses summarised in the Planning SoCG, there are no technical or environmental objections to the proposals with the exception of a heritage harm at the lower end of the 'less than substantial' spectrum and the loss of BMV agricultural land.
- 10.2. Such was her confidence on heritage matters that the case officer in her Report to the Executive Members (as signed off by her two senior officers) (CD5.3) was that the only departure from the adopted development plan related to the principle of development.
- 10.3. Whilst I agree that this is the only conflict of any substance, there is also technically a conflict with Policies CS9 and CS34, in so far as it relates to development beyond the settlement boundary and the loss of BMV land.
- 10.4. Section 6 of this Proof outlines the decision-making framework applicable to the determination of this appeal. That section explains that the *tilted balance* in paragraph 11(d) of the Framework is engaged for two separate reasons:
- a) the evidence of Mr Pycroft demonstrates that there is less than five years housing land supply within the authority area; and
 - b) the policies of the development plan are 'out of date', irrespective of the housing land supply position.
- 10.5. It falls therefore to consider whether the appeal proposals pass the two-limbed test contained in paragraphs 11(d)(i) and 11(d)(ii) of the Framework.
- Limb (a) – the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*
- 10.6. In respect of the first limb, the development proposed on the appeal site does not fall within any of the protected policy designations referenced in Footnote 7 of the Framework. Whilst it is acknowledged that the development would result in less than substantial harm to the significance of designated heritage assets, this is at the lower end of the spectrum of harm and the substantial public benefits arising from the Proposed Development significantly outweigh the harm. The impact upon heritage assets does not therefore provide "a clear reason for refusing the development proposed". The first limb of the test in paragraph 11(d)(i) is therefore passed.

²⁵ see the original Planning Statement ESD J05(a).10 and Appendix NM5 for my analysis of the proposed development against the policies of the Thornbury Neighbourhood Plan.

Limb (b) – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

- 10.7. Holgate J in the *Gladman case*²⁶ concluded that consideration of paragraph 11(d)(ii) should include the relevant policies of the development plan. This judgement was subsequently upheld by the Court of Appeal.
- 10.8. For the reasons set out above, Policies CS5, CS9 and CS34 are ‘out of date’ and should only be afforded limited weight in the determination of the appeal. With regards the second limb, the conflict with the policies of the development plan and the Framework is confined to three matters:
- a) lower end less than substantial harm to heritage assets;
 - b) the loss of BMV agricultural land; and
 - c) the development of land outside of the settlement boundary.
- 10.9. I have explained in the preceding section of my Proof in response to each of these reasons for refusal why these adverse impacts should be afforded only limited weight in the planning balance.
- 10.10. Set against this are the wide range of benefits explained in Section 8 of this Proof. These benefits and the weight to be attributed to them are:
- a) Provision of market housing – substantial weight;
 - b) Provision of affordable housing – substantial weight;
 - c) Provision of plots for self-build housing – moderate weight;
 - d) Enhanced walking and cycling opportunities – limited-moderate weight;
 - e) Local highways improvement works – moderate weight;
 - f) Strategic highways improvement works – substantial weight;
 - g) Ecological protection and enhancement – limited-moderate weight;
 - h) Provision of public open space – moderate weight;
 - i) Economic benefits – moderate weight;
 - j) Public transport improvements – moderate weight;

²⁶ Gladman Developments Ltd v. SSHCLG & Corby BC; & Uttlesford DC [2020] EWHC 518 (Admin) – CD4.1

k) Community facilities – moderate weight; and

l) Potential for drainage improvements on Oldbury Lane – limited-moderate weight.

10.11. The weight attributed to each of these individual benefits varies, but their combined weight is substantial and significantly outweighs the adverse impacts of limited weight when assessed against the relevant policies of the Framework and those of the development plan. The second limb of the test in paragraph 11(d)(ii) is therefore passed.

10.12. **In accordance with Paragraph 11, I consider that planning permission should therefore be granted.**

10.13. Notwithstanding, even if the authority could demonstrate a five year housing land supply and it was concluded that the policies of the development plan were not ‘out of date’ (in accordance with paragraph 11) such that the *tilted balance* is not engaged, the combined weight of the material considerations clearly justifies a departure from the adopted development plan absent of the *tilted balance*.

10.14. As explained above, the only conflict with the development plan is with Policies CS5, CS9 and CS34. The policies addressing the principle of development – CS5 and CS34 – establish and enforce a spatial strategy that: was defined almost eight years ago; does not reflect the housing needs of the wider HMA; and are not fit for purpose to meet the housing needs of the authority area. In such circumstances policies CS5 and CS34 should only be afforded limited weight in the planning balance required under Section 38(6). Similarly and for the reasons explained, the lower end less than substantial heritage harm and loss of BMV should be afforded only limited weight.

10.15. Against this limited conflict with the development plan must be considered the material considerations which weigh in favour of granting planning permission. There are a considerable number of public benefits arising from the Proposed Development which are explained above in the context of the three pillars of sustainability and summarised in Section 7. These demonstrates how the proposed development would make net gains to each aspect of sustainability and result in a demonstrably sustainable development. The combined weight of these benefits would substantially outweigh the limited conflict with the development plan.

10.16. It is evident from the email correspondence amongst three experienced planning officers within SGC including the Principle Planner Case Officer, the interim Team Leader for Major Applications and the Head of Strategic Planning and Housing (CD5.2) that officers had also reached this conclusion in May 2021; a decision consistent with other recent major housing applications in SGC²⁷. It was only as a consequence of the intervention of the Executive Members at SGC that the officer’s position changed from one of recommending approval to a recommendation of refusal. This change in direction occurred in spite of further evidence provided by a third party to the Council which concluded that there was in fact no harm to heritage.

²⁷ Notably Land East Of North Road, Yate (P20/24044/O) and Land At Crossways, Morton Way, Thornbury (PT18/3756/O)



It is my considered professional opinion that the only way the Council reached the judgement it did on the application is by over-stating the harm and under-stating the benefits of the development.

- 10.17. **For the reasons above, I consider that, even absent of the tilted balance, material considerations indicate that a departure should be made to the development plan and planning permission should therefore be granted pursuant to Section 38(6) of the Planning and Compulsory Purchase Act.**

11. Summary

- 11.1. I am Nick Matthews, MA(Hons), MTCP, MRTPI. My Proof of Evidence is submitted in respect of the planning appeal (APP/P0119/W/21/3288019). The appeal was submitted by BDSL & The North West Thornbury Landowners Consortium (from hereon referred to as 'Barwood') in November 2021 in response to the failure of SGC to determine the application within the preceding three years.
- 11.2. The planning judgements I make are informed by the evidence of technical specialists with relevant expertise in:
- Heritage – Mr Crutchley Proof of Evidence;
 - Housing Land Supply and Affordable Housing – Mr Pycroft Proof of Evidence;
 - Landscape – Mr Richards Statement;
 - Highways – Mr Thorne Statement; and
 - Agricultural Considerations – Mr Kernon Statement.
- 11.3. The submission of this planning appeal is very much a last resort. Barwood had worked positively with the local planning authority officers and statutory consultees over an extended determination period in an effort to resolve objections which have been raised to the original application submission. This exercise was very productive, with agreements reached across the vast majority of technical matters as demonstrated in the consultation responses. The background correspondence provided by SGC in response to a Freedom of Information request indicates that as a consequence the officers had become satisfied that the planning balance lay in favour of granting planning permission (absent of the *titled balance*) and were originally minded to recommend approval of the application. Following engagement between officers and the executive members however this position changed and progress towards planning committee stalled. With no progress being made towards determination of the application, the appeal was submitted.
- 11.4. I have serious concerns that after the engagement with the Executive Members, the officers actively sought reasons to refuse planning permission rather than applying a fair and impartial planning judgement. The planning case officer had originally proposed to recommend approval in a report to Members (which was signed off and endorsed by senior colleagues). The only further evidence which was produced to inform the planning judgement subsequent to that report was independent advice on landscape and heritage. The former raised no substantive concerns with the application proposals, while the latter concluded that there was in fact 'no harm' to heritage assets. With the magnitude of 'harm' reduced, logically this further evidence should only serve to reinforce the conclusion and recommendation of the case officer that planning

permission ought to be granted. Instead however the officer's report taken to committee in January 2022 concluded that planning permission ought to be refused if the decision had remained within the jurisdiction of the local planning authority.

11.5. This change in direction raises a serious concern that the Council actively sought reasons to refuse development, understated the significant benefits that would be delivered and overstated the level of harm.

The Development Plan

11.6. The adopted development plan comprises the Core Strategy and the Policies, Sites and Places DPD.

11.7. The appeal proposals accord with, and in some cases support the delivery of, the majority of relevant development plan policies. The only conflicts which arise are in relation to the following policies:

- Policy CS5 – Location of Development;
- Policy CS9 – Managing the Environment and Heritage;
- Policy CS34 – Rural Areas; and
- Policy PSP17 – Heritage Assets and the Historic Environment.

11.8. I address the reasons for these conflicts and the weight that should be attributed to them in the planning balance within my evidence and as summarised below.

Material Considerations

11.9. The emerging development plan comprises the West of England Spatial Development Strategy (SDS), the new Local Plan and the Thornbury Neighbourhood Plan (TNP). The first two of these emerging plans are at a very early stage in their preparation and should be afforded only very limited, if any, weight as material considerations.

11.10. The TNP is shortly to be taken to referendum and for the purposes of this appeal I have therefore assumed that it has significant weight. I have shown through my evidence that the appeal proposals would not however conflict with the spirit, purpose or policies of the TNP, nor should it undermine public confidence or trust in the planning process.

11.11. The other material considerations relevant to the determination of the planning application are the Community Infrastructure Levy & Section 106 Planning Obligations Guide SPD and the public benefits arising from the development.

Decision Making Framework

- 11.12. It is my professional opinion that the relevant development plan policies for the determination of this appeal are out of date and that the *tilted balance* is therefore engaged. There are in this instance two routes to the *tilted balance*. If it is accepted that there is less than five years housing land supply then this renders the policies 'out of date' and automatically engages the *tilted balance*. The evidence of Mr Pycroft demonstrates that this is the case. However, separate to this I consider that in the particular circumstances pertaining to the plan-making process in SGC, the policies most important for determining the planning appeal are 'out of date' irrespective of the housing land supply position.
- 11.13. Policies CS5 and CS34 are designed to restrict development outside of the defined settlement boundaries except in a limited number of circumstances. The purpose of this is to direct development in accordance with the spatial strategy of the adopted development plan. There are two fundamental and linked reasons why policies which restrict development in this manner are out of date.
- 11.14. First, the spatial strategy and the housing requirement upon which it is predicated was established in a development plan 'submitted' in March 2011. It therefore pre-dated the Framework and Duty to Cooperate, and had no regard to the housing needs of the wider Bristol Housing Market Area (HMA).
- 11.15. This issue was known at the time of the Core Strategy examination, however, the Core Strategy Inspector, reassured by the prospects of a new Framework compliant Strategic Housing Market Assessment (SHMA) on the horizon and a commitment by SGC to review the Core Strategy once this was in place, found the Core Strategy sound. He did so only on the basis that the review had been completed by the end of 2018.
- 11.16. For a number of years the spatial strategy has therefore failed to deliver a sufficient number of homes. My analysis, which compares housing delivery of the three authorities within the Bristol HMA with the Standard Method outputs, indicates that the accrued shortfall in delivery over the period since the SGC Core Strategy was adopted is between 10,995 – 17,619 dwellings across the HMA.
- 11.17. Policies CS5 and CS34, which contain a spatial strategy and restrict development to it, have in many respects been 'out of date' as soon as the wider housing needs of the Bristol HMA were known. As required by the Inspector and written into the Core Strategy, these policies should have already been reviewed by the end of 2018 in order to give time to increase the supply of housing land in response to the West of England SHMA during the plan period. The reason they should already have been reviewed is because they are demonstrably *out of date*.
- 11.18. Second, and looking forward, the adopted spatial strategy is incapable of delivering the step-change in housing delivery necessary to address the likely housing requirement in the emerging WECA SDS.

11.19. My analysis indicates that a reasonable estimate of the housing requirement for SGC in the emerging SDS is 2,122 dwellings per annum (dpa). That figure is:

- 1,009 dpa higher than the average annual delivery rate over the Core Strategy plan period;
- 725 dpa higher than the average annual delivery rate since the Core Strategy was adopted; and
- 461 dpa higher than the Council's average estimated delivery rate over the next six years (a figure which is disputed for the reasons outlined in the evidence of Mr Pycroft).

11.20. Even if the SDS and new Local Plan timetables remain on track, the new allocations made through the plan-making process are unlikely to deliver new homes until towards the end of this decade. A boost in housing supply is therefore needed now to aid in the transition to a higher housing requirement. Any such boost will inevitably need to take place on sites which do not fit into the adopted spatial strategy and which are not allocated for development. For this reason also I consider that Policies CS5 and CS34 are out of date.

Sustainability of the Proposals

11.21. The evidence I have presented highlights the many reasons why the appeal proposals would contribute positively to the achievement of the three pillars of sustainable development. In summary these are as follows:

- An economic objective:
 - The development would create a number of direct and indirect employment opportunities for new and existing residents within the construction sector and in the services and facilities once the development is operational;
 - New homes and therefore residents at Thornbury would increase footfall within Thornbury Town Centre supporting the vitality and viability of the local shops, services and facilities; and
 - The infrastructure supporting the development including the public transport services and active travel connectivity, would help support the achievement of economic objectives.
- A social objective:
 - The delivery of an additional 595 dwellings will provide a significant boost to housing; and one which is much needed given the conclusions reached in the preceding section that there

has been a chronic undersupply of housing to date during the Core Strategy plan period and a substantial step change in the housing requirement on the horizon through the SDS;

- With over 4,000 households on the housing waiting list and an identified need between 2020-35 of 18,455 households, there is an urgent and pressing need to deliver affordable housing in South Gloucestershire. The proposed development would make a significant contribution towards addressing this key social objective;
 - There is a need for self-build plots and a duty on the Council to facilitate the delivery of these. Consistent with policy, 5% of the new homes on site would be for self-build;
 - It is recognised by SGC that the development would deliver a high quality extension to Thornbury;
 - Thornbury is a suitable and sustainable location to accommodate additional residential development and the appeal proposals are well located at Thornbury in order to benefit from good access to the services and facilities available;
 - The development would provide a new primary school on site to meet the education needs arising from the development. The new community hub has been deliberately positioned on the eastern part of the site, close to the Sustainable Transport Link through to the 'Park Farm' development. Park Farm, a previous allocation comprises 500 homes (the majority of which have been constructed and are now occupied) but with no community facilities. Positioning the community hub at the heart of the wider area will meet the needs of the population beyond the appeal site;
 - The social benefits of the development described above, can only reasonably be achieved as part of the current planning appeal proposals due to the constraints on growth around the remainder of Thornbury. Indeed, according to the planning case officer the Proposed Development represents the "*next logical area for growth*"²⁸;
 - The development proposals contain a substantial amount of public open space which complement the range of open space available in the locality and positively contribute to the overall amount of accessible open space available to the local community.
- An environmental objective:

²⁸ In her email to the Head of Strategic Planning and Housing (CD5.6)

- The only environmental 'harms' arising from the proposed development are the lower end less than substantial harm to heritage assets and the loss of BMV agricultural land. These impacts are addressed in relation to the respective reasons for refusal;
- The development would also give rise to a number of environmental benefits / enhancements. Indeed it:
 - would protect and enhance biodiversity, delivering a BNG;
 - commits to measures which ensure resilience to climate change through the incorporation of suitable sustainable drainage features;
 - includes measures designed to minimise energy use such as a commitment to provide 20% of the energy demands of the development from renewable sources and the provision of electric car charging points; and
 - enhances the environmental sustainability of the neighbouring Park Farm development by reducing the need for residents to travel and delivering a viable and self-sustaining bus service for this north western part of Thornbury.

Public Benefits

11.22. Many of the sustainability feature and assets of the appeal proposals would provide wider public benefits. In summary these include:

- Provision of Market Housing – substantial weight;
- Provision of Affordable Housing – very substantial weight;
- Provision of Self-Build Housing – moderate weight;
- Enhanced walking and cycling opportunities – limited-moderate weight;
- Local highway improvement works – moderate weight;
- Strategic highways improvement works – substantial weight;
- Ecological protection and enhancement – limited-moderate weight;
- Provision of accessible public open space – moderate weight;

- Economic benefits in the form of job creation and increased spend at local shops and services – moderate weight;
- Public transport improvements serving the residents of the wider area – moderate weight;
- Provision of community facilities positioned with good access for residents of the wider north west Thornbury area – moderate weight; and
- Potential for drainage improvements on Oldbury Lane – moderate weight.

11.23. These public benefits are important in both the internal heritage balance required by paragraph 202 of the Framework and in the overall planning balance. These are addressed in the following two sections.

Response to the Reasons for Refusal

a) Harm to Heritage Assets

11.24. The evidence of Mr Crutchley and the judgement of the SGC Conservation Officer both conclude that the appeal proposals would give rise to less than substantial harm to heritage assets. A judgement is therefore required in accordance with paragraph 202 of the framework whether the identified harm is outweighed by the public benefits arising from the development.

11.25. On one side of the balance is the lower end less than substantial harm to two listed buildings, and by association therefore to the conservation area. The magnitude of harm is so close to the lower end of the spectrum that in the judgement of one heritage professional appointed by the Council to review the proposals, it was judged to result in 'no harm'. On the other side of the balance are the wide-ranging public benefits associated with the development. Twelve separate benefits have been identified in total with their weight varying from 'limited-moderate' to 'very substantial'.

11.26. I am left with absolutely no doubt that the combined weight of these public benefits clearly and demonstrably outweighs the very limited harm to heritage assets. In my judgement the internal heritage balance weighs heavily in favour of granting planning permission and the test contained within paragraph 202 of the Framework and Policy PSP 17 is therefore satisfied.

b) Loss of Best and Most Versatile Agricultural Land

11.27. On no other occasion in relation to the five approved developments around Thornbury has the loss of BMV been a reason for the application to be refused or dismissal of an appeal and, despite engaging with officers for almost three years, the first time we were made aware of the loss of BMV as a concern of the Council was in the Officers Report to Committee.

- 11.28. Whilst the loss of BMV as part of the development is, by reference to the Natural England Guidance, 'significant', the economic loss associated with the development is considered to be 'limited'.
- 11.29. Furthermore, there is a substantial need for housing in South Gloucestershire and the loss of BMV is an inevitable consequence of meeting the housing needs of the authority area. There are four reasons why I come to this conclusion:
- i. as demonstrated through the preparation of the Local Plan and the JSP, there are myriad considerations which feed into the determination of the appropriate locations for development of which BMV is only one. In preparing the Local Plan and the JSP the authority identified locations which would have resulted in the loss of BMV. In so doing it was clearly inevitable that development would be required on BMV if it was to meet the housing requirement;
 - ii. the options for growth around Thornbury would all result in the loss of BMV, indeed this is the case with all of the applications granted planning permission either by SGC or on appeal. Notably the only major scheme at Thornbury which has been refused in recent years and subsequently dismissed on appeal did not involve the loss of BMV;
 - iii. the growth of many settlements will inevitably involve the loss of BMV "*as many settlements were originally farming villages that grew, and they would have been based where the land was the best*"²⁹; and
 - iv. the loss of 24.5ha of BMV represents a very small proportion of the overall amount of BMV in South Gloucestershire, estimated to be 18,656ha.
- 11.30. Whilst the loss of BMV is, by reference to the measures prescribed by Natural England 'significant', this would have a 'limited' economic impact and is inevitable in meeting the housing needs of the authority area. Overall I therefore conclude that this harm should be afforded only **limited weight** in the planning balance; a conclusion consistent with many of the decisions made around Thornbury in recent years
- c) *Speculative in nature, outside of the settlement boundary, beyond the scale of development appropriate to revitalise Thornbury town centre and contrary to Policies CS5 and CS34*
- 11.31. The appeal proposals are indeed 'speculative' if what is meant by speculative is that they are on land not allocated for development.
- 11.32. However, as demonstrated in my evidence and that of Mr Pycroft, there is a significant shortfall in housing which renders Policies CS5 and CS34 out of date. If this housing shortfall is to be addressed and homes provided to meet the housing needs of households who cannot afford to buy or rent on the open market,

²⁹ See Statement from Mr Kernon in Appendix NM3.

then it is absolutely necessary for the Council to support 'speculative' housing schemes in advance of the supply increasing from the new Local Plan.

- 11.33. The inference from this reason for refusal is that the scale of development contained in Policy CS5 is sufficient to revitalise the town centre. My evidence demonstrates that despite a greater scale of development coming forward at Thornbury, the challenges facing the town centre have not subsided. The development directed towards Thornbury as part of the spatial strategy in Policy CS5 should not therefore be perceived as a ceiling.
- 11.34. For these reasons development is necessary outside of the spatial strategy established in Policy CS5 and beyond the settlement boundaries referenced in Policy CS34. The perceived conflict with these policies should therefore be afforded only **limited weight**.

d) The absence of a Section 106 Agreement

- 11.35. A draft unilateral undertaking is in circulation which uses the Council's standard s106 drafting. It is anticipated that the substance of all obligations will be agreed between the parties with the possible exception of the financial contribution towards playing pitch provision and the proposed inspection fees for the open space.
- 11.36. The proposed contributions towards off site playing pitch provision and the inspection fees have not been satisfactorily justified by the authority and based on the evidence available they do not meet the tests in Regulation 122 of the CIL Regulations.

The Planning Balance

- 11.37. The evidence provided demonstrates that the most important policies for the determination of the appeal are out of date and that the *tilted balance* is therefore engaged. It falls therefore to consider whether the appeal proposals pass the two-limbed test contained in paragraph 11(d) of the Framework.
- 11.38. In respect of limb (a), the appeal site does not fall within any of the protected policy designations referenced in Footnote 7 and, as explained above, the internal heritage balance weighs in favour of granting planning permission. There is therefore no "*clear reason for refusing the development proposed*" and the first limb of the test in paragraph 11(d)(i) is passed.
- 11.39. Limb (b) requires a judgement of the adverse impacts of development and only where these would significantly and demonstrably outweigh the benefits should permission be refused. The conflict with the policies of the Framework and the development plan is confined to:

- a) lower end less than substantial harm to heritage assets;

- b) the loss of BMV agricultural land; and
- c) the development of land outside of the settlement boundary.

11.40. I have explained in my evidence why each of these adverse impacts should be afforded only limited weight in the planning balance.

11.41. Set against this are the wide range of benefits explained in Section 8 of my evidence. These benefits and the weight to be attributed to them are as follows:

- Provision of market housing – substantial weight;
- Provision of affordable housing – substantial weight;
- Provision of plots for self-build housing – moderate weight;
- Enhanced walking and cycling opportunities – limited-moderate weight;
- Local highways improvement works – moderate weight;
- Strategic highways improvement works – substantial weight;
- Ecological protection and enhancement – limited-moderate weight;
- Provision of public open space – moderate weight;
- Economic benefits – moderate weight;
- Public transport improvements – moderate weight;
- Community facilities – moderate weight; and
- Potential for drainage improvements on Oldbury Lane – limited-moderate weight.

11.42. The weight attributed to each of these individual benefits varies, but their combined weight is very substantial and significantly outweighs the adverse impacts of limited weight when assessed against the relevant policies of the Framework and those of the development plan. The second limb of the test in paragraph 11(d)(ii) is therefore passed.

11.43. **In accordance with Paragraph 11, I consider that planning permission should therefore be granted.**



11.44. Notwithstanding, even if the authority could demonstrate a five year housing land supply and it was concluded that the policies of the development plan were not 'out of date' (in accordance with paragraph 11) such that the *tilted balance* is not engaged, **the combined weight of the material considerations clearly justify a departure from the adopted development plan absent of the *tilted balance*.**



Nick Matthews
Director