

**Appeal Statement of Case**  
Land at Sodbury Road, Wickwar

**Bloor Homes South West**

June 2023

**Turley**

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# Introduction

- 1.1 This Statement of Case (SoC) has been prepared by Turley on behalf of Bloor Homes South West, herein referred to as ‘the Appellant’. It sets out the Appellant’s grounds of appeal relating to the failure of South Gloucestershire Council to determine an outline planning application for residential development on land at Sodbury Road, Wickwar. The description of development is as follows;

*Erection of up to 180 dwellings, a local shop and associated infrastructure (Outline) with access to be determined; all other matters reserved.*

- 1.2 Application of the PINS Guidance (“Criteria for determining the procedure for planning, enforcement, advertisement and discontinuance notice appeal”) for Planning Appeals lead to the conclusion that a public inquiry is the appropriate procedure for determining this appeal. Accordingly a separate statement is included with this appeal submission justifying why it needs to be determined by the public inquiry procedure.
- 1.3 An outline Planning Application for the proposed development was submitted and confirmed valid by South Gloucestershire Council (‘the Council’) as of 21 March 2022 under reference P22/01300/O. The statutory timeframe for a decision ended on 20 June 2022, an extension of time was agreed until 21 April 2023, and the application was not determined by the Council within these timescales.
- 1.4 The application documents will be provided as Core Documents to the appeal, along with other key documents, which will be of relevance to the appeal determination. An initial Core Document List is provided with this submission and will be updated in discussion with the Council ahead of the inquiry.
- 1.5 This SoC presents the case on behalf of the Appellant as to why the Appeal should be allowed and planning permission granted. Where relevant, and in the absence of any putative reasons for refusal (if any are to be advanced) at this stage, reference is made to responses to the application provided by statutory consultees and other interested parties.
- 1.6 In short, the Appellant’s case is that the tilted balance within paragraph 11(d)(ii) of the NPPF is engaged<sup>1</sup> whereby planning permissions should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. In this case, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and so planning permission should be granted.
- 1.7 A draft Statement of Common Ground (SoCG) has been prepared by Turley on behalf of the Appellant and has been submitted to South Gloucestershire for comments. The Appellant will seek to agree the contents of the SOCG in advance of the Inquiry, so as

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<sup>1</sup> As it was in the recent Barwood Land appeal (ref. 3288019 (Core Document 5.1)) where relevant policies were found to be out of date due to both housing policies not being compliant with the Framework (regardless of the position on housing land supply) and also due to an identified shortfall in five year housing land supply. These findings were also reached in a further appeal at Old Sodbury ref. 3303905 (Core Document 5.2).

to reduce the scope of evidence required. An initial draft of the SOCG is submitted alongside this appeal. The Appellant will refer to any agreed SoCG in future proofs of evidence.

- 1.8 The Statement of Case forms part of the appeal submission and sets out the case that will be presented at the Inquiry by expert evidence on behalf of the Appellants. The Appellants reserve the right to add to the matters contained in this Statement and to the list of documents set out.

# The Appeal Site and the Proposals

## Site Location and Context

- 2.1 The site comprises approximately 7.89 hectares of undeveloped land located to the south west of Wickwar. The site lies to the west of Sodbury road, fronting this road at the northern and southern extents, and otherwise lying to the rear (west) of existing built development on the Western side of Sodbury Road. Existing and consented residential development lies opposite the site on the eastern side of Sodbury Road.
- 2.2 Wickwar lies at the north eastern edge of South Gloucestershire approximately 2.5 miles south of Charfield and 3 miles north of the centre of Yate to the south. Two access points into the site are proposed as part of this application both on to Sodbury road. The site adjoins the existing defined settlement boundary at the point of the northern access. The existing development along Sodbury Road from this point south is not currently within the settlement boundary (as defined in the Local Plan).

## Designations on the Site and in the Surrounding Area

- 2.3 The site comprises several agricultural fields of limited ecological importance and is divided by hedgerows and some trees. The site is not within any nationally or locally designated landscape.
- 2.4 There are no existing public rights of way across the site, and the site is wholly within Flood Zone 1, that with the least vulnerability to flooding. The site is broadly flat with a gentle slope down from south east to north west.
- 2.5 There are not any known or designated heritage assets within the site. A Grade II\* listed building is located circa 440m west of the site and the nearest listed building is a Grade II listed farmhouse 28m north of the site boundary. The southern edge of the Wickwar Conservation area is located circa 330m north of the site.

## Planning History

- 2.6 There is no record of any historic applications on the site, aside from in relation to this proposal. This comprises a request for an EIA Screening Opinion (processed under application ref. P21/030/SCR) (Core Document 6.1) submitted in October 2021. The Council confirmed in November 2021 (Core Document 4.1) that EIA is not required for these proposals, by issuing a negative Screening Opinion.

## The Proposals

- 2.7 The appeal proposals seek outline permission for a mixed use scheme of up to 180 dwellings, a new local shop and associated infrastructure (including new play facilities, and other public open spaces). The description of development is set out below;

*Erection of up to 180 dwellings, a local shop and associated infrastructure (Outline) with access to be determined; all other matters reserved.*

- 2.8 All matters except for primary vehicular access points (two points) from Sodbury Road are reserved for subsequent approval.
- 2.9 The proposals will provide 35% affordable housing in accordance with the adopted Core Strategy.
- 2.10 Although full details for the scheme are not provided (as the matters of layout, scale appearance and landscape are reserved for future determination), an illustrative masterplan for the proposal has been developed to demonstrate that the site can suitably accommodate the level of development proposed in a well-designed manner. This is provided with the submission alongside details of key development 'parameters' (Heights, Amount, Uses etc.) within the submitted Design and Access Statement. The proposed local shop is also in outline only but consideration has been given to the land required to accommodate such a facility and appropriate allowance has been made to accommodate this use within this area, with the design and specification having regard to input provided by potential operators.
- 2.11 At the time the appeal against non-determination was submitted, the application comprised of a suite of documents (some of which had been amended during the course of the determination period) as set out in Section 4 of the draft Statement of Common Ground.
- 2.12 The application documents will be provided as Core Documents to the appeal, along with other key documents which will be of relevance to the appeal. An initial Core Documents List is provided at Appendix 1 of the Statement of Common Ground and will be updated in discussion with the Council ahead of the Inquiry.

# The Application Determination

## Amendments to the Application during Determination

- 3.1 The Appellant's carefully reviewed the representations made to the application, including comments raised on design, transport and access, flood risk, landscape, heritage, ecology and energy. Amendments to the scheme were submitted in response to various stakeholder comments and the outcome of the Design Review undertaken in 2022. The comments made and scheme response following the Design Review process, and in response to SGC Officer comments, are summarised from Page 46 in the updated DAS (**Core Document 2.2**).
- 3.2 The full list of amended and updated documents, on which a decision on this appeal should now be made, are set out in Section 2 of the Core Documents list.
- 3.3 These amendments were submitted on 27 February 2023. The changes did not result in amendments to the description of the proposed development as originally submitted. The Council consulted on the amendments made, and responses were received from various parties.

## Appeal Against Non-Determination

- 3.4 The outline planning application for the proposed development was deemed valid as of 21 March 2022. The letter confirming this is included as **Core Document 4.2**.
- 3.5 The statutory timeframe for a target decision ended on 20 June 2022. Following the submission of amended plans in 2023, an extension of time for the determination of the application was agreed until 21 April 2023. The application was not determined by the Council within these timescales.
- 3.6 A formal notification of intention to appeal against the non-determination of the application, and to do so via the public inquiry procedure, was submitted to the Council on 19 April 2023.

## Relevant Planning Policy Framework

- 4.1 A summary of the relevant planning policy documents is set out in the draft Statement of Common Ground. It is expected that the documents and relevant policies which set the context for the appeal will be agreed with South Gloucestershire Council ahead of the Inquiry.

### The Development Plan

- 4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that:

*“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”*

- 4.3 The current ‘Development Plan’ for the site consists of the South Gloucestershire Core Strategy (2006-2027) and the South Gloucestershire Policies, Sites and Places Plan.

- 4.4 Other material considerations include:

- The National Planning Policy Framework (March 2012) (NPPF) and National Planning Practice Guidance (NPPG);
- Supplementary Planning Documents; and
- New South Gloucestershire Local Plan.

- 4.5 Whilst the Development Plan is the starting point for making determinations under the Planning Acts, other up to date material considerations are significant in this case.

### Core Strategy 2006-2027

- 4.6 The South Gloucestershire Core Strategy 2006-2027 was adopted on 11 December 2013. The strategy sets out the general location for development, its type and scale, as well as various other strategic policies to protect the physical and environmental assets of the area.
- 4.7 However, the housing requirement in the Core Strategy and the settlement boundaries that depend on it, are not compliant with the Framework and are out-of-date, this is regardless of the five-year housing land supply position. This was a matter considered in other appeals<sup>2</sup> in South Gloucestershire and is a point that is further covered in detail in subsequent sections of this statement.
- 4.8 Notwithstanding the above, the Core Strategy remains part of the adopted Development Plan for South Gloucestershire. The Most Important policies<sup>3</sup> for determination are set out in the draft Statement of Common Ground which

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<sup>2</sup> Ref. 3303905 (Core Document 5.2) and Ref. 3288019 (Core Document 5.1)

<sup>3</sup> Relevant to Paragraph 11 d of the NPPF

accompanies this submission, and the Appellant will seek to agree these with the Council in advance of the inquiry.

4.9 A fuller summary of relevant local and national planning policy is included in Section 4 of the Planning Statement submitted with the application (**Core Document 1.20**). The following policies are considered relevant to the determination of this appeal;

- Policy CS1 – High Quality Design
- Policy CS2 – Green Infrastructure
- Policy CS4A – Presumption in Favour of Sustainable Development
- Policy CS5 – Location of Development
- Policy CS6 – Infrastructure and Developer Contributions
- Policy CS8 – Improving Accessibility
- Policy CS9 – Managing the Environment and Heritage
- Policy CS14 – Town Centres and Retail
- Policy CS15 – Distribution of Housing
- Policy CS16 – Housing Density
- Policy CS17 – Housing Diversity
- Policy CS18 – Affordable Housing
- Policy CS24 – Green Infrastructure, Sport and Recreation Standards
- Policy CS34 – Rural Areas

#### **Policies Sites and Places Plan**

4.10 The Policies, Sites and Places plan, adopted 8 November 2017, replaces the remaining saved policies of the South Gloucestershire Local Plan 2006 and supplements the adopted Core Strategy by dealing with a range of more detailed Development Management matters.

4.11 The following policies are considered of relevance to the appeal;

- Policy PSP1 – Local Distinctiveness
- Policy PSP2 – Landscape
- Policy PSP3 – Trees and Woodland
- Policy PSP6 – Onsite Renewable and Low Carbon Energy
- Policy PSP8 – Residential Amenity

- Policy PSP10 – Active Travel Routes
- Policy PSP11 – Transport Impact Management
- Policy PSP16 – Parking Standards
- Policy PSP17 – Heritage Assets and the Historic Environment
- Policy PSP40 – Residential Development in the Countryside
- Policy PSP42 – Self Build and Custom Housebuilding
- Policy PS43 – Private Amenity Standards

#### **New South Gloucestershire Local Plan**

- 4.12 Work has commenced on the initial stages of a New South Gloucestershire Local Plan, which will replace the Core Strategy and Policies, Sites and Places Plan and cover the period 2018-2036. A consultation was undertaken on initial draft documents (Issues and Approaches) in winter 2020/21 and a consultation on Key Issues was undertaken in March 2022. There are as yet no draft policies and so the emerging New South Gloucestershire Local Plan should be afforded no weight in this appeal, other than it being relevant that a new plan is unlikely to be adopted for many years.

#### **Material Considerations**

##### **National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG)**

- 4.13 The revised NPPF was published in July 2021. The NPPF sets out the Government's planning policies for England and how these are expected to be applied.
- 4.14 Planning Practice Guidance (PPG) provides context and explanation to the NPPF.
- 4.15 Both are material considerations in the determination of planning applications and will be referred to where relevant in the Appellant's evidence.

## Appellant's Case

- 5.1 Section 12.2 of the Planning Appeals: Procedural Guide sets out that where an appeal is against non-determination, the Appellant must address the areas that the Appellant considers most likely to comprise the local planning authority's objections to the development proposed.
- 5.2 In order to understand what is most likely to comprise the LPA's objections to the development, we have reviewed the consultation responses received on the application which are summarised in the following table;

**Table 1: Summary of Consultation Responses received to application**

Consultee	Objection	No Objection	Comment/ Further Details
Archaeology			✓
Ecology		✓	
Urban Design	✓		
Climate and Nature Emergency Team			✓
Public Open Space	✓		
Designing Out Crime Officer		✓	
Tree Officer	✓		
Landscape	✓		
Self-Build Officer	✓		
Lighting Officer		✓	
Strategic Housing Enabling Team		✓	
Lead Local Flood Authority		✓	
Wessex Water		✓	
Historic England		✓	
Highways Team	✓		
National Highways		✓	
Conservation Officer (Heritage)			✓
Noise (Environmental Protection)		✓	

- 5.3 The case presented below addresses the Appeal proposal's perceived conflict with the Development Plan, and considers the objections we anticipate the Council has against the proposals.

## **Accordance with the Development Plan**

- 5.4 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the assessment has to be the relevant policies as set out in the Development Plan.
- 5.5 As such, we start below with the Appellant's assessment of the Appeal Scheme's accordance with relevant policies contained in the Development Plan including policies relevant to what the Appellant anticipates the Council's objections to the proposed development will be. We will then turn to consider other material planning considerations.

### **The Principle of Development – Accordance with Policies CS4A, CS5, CS15 and CS34 of the Core Strategy**

- 5.6 The application site lies to the west of existing built form, mainly residential properties, along Sodbury Road. Although the current defined settlement only adjoins part of the site (where the northern access is proposed) the actual built up area of the settlement extends southwards along this road. It is worth noting on this point, that the settlement boundaries within South Gloucestershire have not been reviewed since the Core Strategy examination<sup>4</sup>, which was circa 10 years ago. When the consented Linden Homes scheme is completed (PK17/4552/O and P19/5258/RM) the built form of the village to the east of Sodbury Road will extend as far south as the southern end of the application site.
- 5.7 It is likely that the future local plan will amend settlement boundaries, that these amendments will include the consented schemes to the east of the road, and that, consequently, the application site will in future adjoin the settlement boundary along the extent of the site's eastern edge.

### **Accordance with Policy CS5**

- 5.8 Policy CS5 sets out the Strategy for Development and states that new development within the open countryside will be strictly limited.
- 5.9 It is acknowledged that the proposals are in conflict with this policy by virtue of the site's location outside of the settlement boundary. However, the NPPF is clear that applications should be considered in the context of the presumption in favour of sustainable development. Where the policies most relevant to the determination of an application are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole or where specific policies indicate that development should be restricted.

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<sup>4</sup> The Policies, Sites and Places plan did not review settlement boundaries, at the time it was adopted, in November 2017, the intention was to review the settlement boundaries as part of the emerging Local Plan, para 1.18 of the PSP Plan suggests the Review will be in place by 2019, this has clearly not progressed as expected.

- 5.10 Furthermore, paragraph 8.32 of the Policies, Sites and Places Plan confirms that this policy will not be considered up to date where the Local Planning Authority cannot demonstrate a housing land supply of at least 5 years.
- 5.11 It is the Appellant's case that this policy is not up to date; the appeal proposals conflict with this policy, but that limited weight should be afforded to this conflict in the planning balance.

**Accordance with Policy CS15**

- 5.12 This policy states how, over the plan period, the Council aims to secure the delivery of a minimum of 28,355 new homes. The strategy is to deliver this need within existing urban areas and at the growth locations identified in the table within the policy. The locations for development listed in the Policy do not include Wickwar.
- 5.13 Policy CS15 does not set a cap on the number of new homes. The quantum required for the authority area as a whole, and that for the 'Rest of South Glos' area within which Wickwar falls, are not expressed as a maximum.
- 5.14 The development will deliver both market and affordable homes and will contribute towards the housing needs of South Gloucestershire as a whole. The proposed development assists with the delivery of the housing requirement and in this respect the appeal proposals would accord with this element of Policy CS15. However, it is acknowledged that the Appeal Site is outside of the defined settlement boundary for Wickwar where the plan limits the type of development that is permissible and is not listed specifically as a location where a portion of the growth has been indicatively attributed in this policy.

**Accordance with Policy CS34**

- 5.15 Policy CS34 seeks, among other points, to maintain the settlement boundaries defined on the Policies Map around rural settlements (including Wickwar) until they are reviewed either through Neighbourhood Plans, the Policies, Sites and Places Plan or a subsequent new Local Plan.
- 5.16 The appeal site is located at a village, but the site itself is not within the defined settlement boundary, and is not allocated for development in the Policies Sites and Places Plan or an adopted Neighbourhood Plan. It is acknowledged that the Appeal Site is outside of the defined settlement boundary for Wickwar where the plan limits the type of development that is permissible and is, therefore, in conflict with Policy CS34.

**Accordance with Policy CS4A**

- 5.17 This policy seeks to reflect the presumption in favour of sustainable development as now set out at paragraph 11 of the NPPF. It states that where relevant policies are out of date the Council will grant permission unless material considerations indicate otherwise unless;

*1. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework and other policies in the Council's Local Plan, neighbourhood development plans, supporting supplementary planning documents and any emerging policy as it may be relevant.*

*2. Specific policies in the National Planning Policy Framework, other policies in the Council's Local Plan, neighbourhood development plans, supporting supplementary planning documents and any emerging policy as it may be relevant, indicate that development should be restricted.*

- 5.18 The Appellant's case is that the relevant policies for determining the application (the *most important* policies as the 2021 NPPF describes them) are out of date. Specifically, the housing requirement in the Core Strategy and the settlement boundaries that depend on it, is not compliant with the Framework and is out-of-date (as found at para 12 in the 'Barwood decision' (ref. 3288019) (Core Document 5.1) and paragraphs 8 and 9 of the Badminton Road decision (ref. 3303905) (Core Document 5.2), both these relevant decisions are considered in more detail later in this section.
- 5.19 Whilst Policy CS4A largely repeats the presumption in favour of sustainable development at paragraph 11 of the NPPF, its inclusion in the development plan gives it statutory status in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004.
- 5.20 There are no specific policies in the Framework, or the development plan that indicate the development should be restricted<sup>5</sup>. On this basis, one then needs to determine if the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, and the Appellant's view is that the harms clearly do not outweigh the benefits. The mechanism within CS4A is triggered and permission should be granted in accordance with this policy.

***Conclusion on Accordance with the Development Plan in respect of principle of development in this location***

- 5.21 The appeal proposals are in conflict with Policy CS5 and Policy CS34 given the site's location outside of the settlement boundary. However, the housing requirement in the Core Strategy was based on an evidence base and approach that predates the NPPF, and is clearly no longer up to date, the Core Strategy is over five years old, and has not been reviewed (in direct conflict with paragraph 33 of the NPPF which requires reviews to be completed no later than five years from adoption), and the overall housing strategy of plan has failed to deliver at the pace needed and looks to be on course to fail overall with respect to delivering the minimum housing requirement in the plan period. The Council has no immediate remedy for the lack of housing delivery to date or the lack of an up-to-date plan.
- 5.22 The Inspectors for the North West Thornbury (Barwood, Core Document 5.1) appeal and the Badminton Road, Old Sodbury appeal (decision made January 2023 Core Document 5.2), agreed that the housing requirement in the CS and the settlement boundaries that depend on it, are not compliant with the Framework and are out-of-date, this is regardless of the five-year housing land supply position (para 12 of the North West Thornbury decision letter refers).

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<sup>5</sup> Whilst heritage is a relevant consideration for this Appeal under Footnote 7 to the NPPF the level of harm to the South Farmhouse falls at the lower end of the range of less than substantial harm and this is outweighed by the public benefits of the proposal.

- 5.23 The NPPF is clear that applications should be considered in the context of the presumption in favour of sustainable development, as is the Development Plan given Policy CS4A. The inclusion of the NPPF presumption within the development plan gives it statutory status in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004. The relevant policies in the plan must be considered to be out of date whereby Policy CS4A requires permission to be granted unless the impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole, or unless specific policies in that Framework indicate that development should be restricted.
- 5.24 There are no specific policies in the Framework that indicate the development should be restricted and so, the Appellant will present evidence to show that there are no adverse impacts that would significantly and demonstrably outweigh the benefits. Those adverse effects would rightly include any adverse effects as a result of any conflict (and harm arising from that conflict) identified with other policies in the Local Plan (other policies are considered below). The appeal proposals accord with Policy CS4A and therefore with the development plan as a whole. The application proposals will deliver a number of substantial benefits and there are limited harms, accordingly it is the applicants position that planning permission should be granted.

#### **Landscape Effects – Accordance with Policy CS9 of the Core Strategy and Policy PSP2 of the Policies, Sites and Places Plan**

- 5.25 A detailed landscape and visual appraisal accompanied the planning application (**Core Document 1.11**). The purpose of this LVA is to identify the baseline conditions of the site and surrounding area and to determine those landscape and visual characteristics that might inform the design of the development proposals, including recommendations for mitigation. It then provides an assessment of the landscape and visual effects predicted to arise from development on the site with reference to the baseline analysis.
- 5.26 A Landscape Addendum was also submitted which reflects the updated scheme details (as of February 2023, Core Document 2.7) and responds to comments made by the Council's landscape Officer (**Core Document 3.1**), and the Design Review Panel (**Core Document 3.3**).
- 5.27 Whilst the character and use of the site would change from agricultural land to residential built form, the proposals retain and enhance (where possible) the existing landscape fabric of the site and incorporate areas of new open space, whilst assimilating the site within its urban context. The revisions to the layout are considered to be positive in terms of incorporating a greater extent of tree planting within POS than was previously the case (particularly along the southern and western boundaries, and creating POS areas that are more diverse and better integrated with proposed development blocks). It also considered that the updated scheme creates a more appropriate green transitional edge to the wider landscape to the west through provision of greater mitigation planting as demonstrated within the accompanying Landscape Strategy

- 5.28 Overall, the Appellant's case is that any landscape and visual effects resulting from the addition of the proposed scheme continuing to be localised in geographic extent and contained within a c.700m radius of the site. The development is a logical extension of Wickwar with a limited geographic range of adverse effect.

**Accordance with Policy CS9**

- 5.29 The site character and features are fairly typical of the surrounding landscape, and the agricultural character, as well as the site's openness, are the aspects with the highest sensitivity. The proposed change from open agricultural land to residential uses will inevitably (and unavoidably) alter the character of the appeal site and result in harm at the local level. This is the case for all green field development sites and is an inevitable consequence of provision of new housing beyond settlement boundaries. Whilst there is some loss of existing hedgerows within the site, there will be a net gain overall in native hedgerow length, tree planting and biodiversity when onsite mitigation measures are taken into account. It is notable that the appellants are using various methods to reduce the net loss in response to comments received from the LPA and design review panel.

- 5.30 The site is located within the LCA 5 – Wickwar Ridge and Vale (**Core Document 4.3**). Within the LCA's description it also sets out a Landscape Strategy for the area, which mentions:

*The extension of development, including for recreation outside existing settlement boundaries, requires sensitive treatment to ensure such changes are integrated within and absorbed into the wider landscape, and impact on any wider views from adjacent ridges is minimised"; and*

*"new development respects and integrates with the historic pattern of the host landscape or settlement pattern and reinforces local distinctiveness through the use of appropriate building materials. "*

- 5.31 The development proposals are therefore considered to be in general accordance with the landscape strategy, and the preservation of the key characteristics, in terms of NPPF paragraph 174b, they have recognised and should be viewed favourably in terms of wider landscape character impacts due to the limited extent.

**Accordance with Policy PSP2**

- 5.32 The context of the tests for development set out in PSP2 are as follows:

*"Landscape Protection and Enhancement*

*Development proposals will be acceptable where they conserve and where appropriate enhance the quality, amenity, distinctiveness and character of the landscape. This includes, but is not limited to:*

- *landscape attributes which define the inherent character of an area, such as: landscape patterns arising from roads, paths, hedges, waterways and buildings; designed and natural landscapes, which include elements of natural beauty, historical or cultural importance and ecological features;*

- *the tranquillity of a landscape, sense of place and setting;*
- *landscape features, such as trees, hedgerows, woodlands, views, banks, walls, ponds and waterways;*
- *distinctive or characteristic topography and landforms.”*

5.33 The starting point for any review of the proposed development in the context of this policy must be that the policy as written presupposes that development can occur (“Development proposals will be acceptable where ...”) and thus that the change to the landscape at some level does not involve necessary conflict with the policy.

5.34 All four bullet points of PSP 2 are relevant to consider and are broadly as follows:

- The appeal proposals conserve the Key Characteristics of the LCA, whilst also committing to enhancing some aspects. Despite the localised landscape harm identified, the proposals respect the defining landscape attributes.
- The landscape is already impacted in a perceptual sense by the proximity of the adjacent development schemes. The site is more 'tranquil' towards the western edge, where the proposals commit to providing an extensive area of POS. Therefore, insofar as the appeal site is tranquil, the proposals address this through the layout of the development.
- The site does not contain a documented or specific positive sense of place. It comprises an area of agricultural land with limited public access but is nothing so valuable to require complete protection or enhancement. The setting is undeniably influenced by the adjacent development, and the appeal proposals would reflect this sense of place in focussing development to the east, and keeping the western parts of the site as informal open space.
- The appeal proposals retain the majority of the existing trees and hedgerows on site and commit to provide a demonstrable net gain in biodiversity and landscape fabric. Whilst there would be some loss in trees, hedgerows and local changes to views these losses should be balanced against net gain in landscape fabric and publicly accessible and attractive green space, there would be no impacts upon woodlands, banks, walls, ponds or waterways; and
- The proposals do not impact local landform (for example the surrounding ridges) and will not materially change the views from these areas as the with consideration of the adjacent developments to immediate east of the site.

5.35 Furthermore, and in accordance with the explanatory text supporting the policy, the following is relevant (paragraphs within the PSP are shown in brackets):

- The appeal proposals do not impact on settlement separation, they commit to providing green space close to where people live, and provide net benefits in terms of biodiversity (3.20);
- The proposals were supported by a detailed and site specific LVIA (3.23);

- The LCA has been used to assess the site and its context (3.23);
- A detailed and site-specific assessment has also been undertaken (3.23);
- The proposals' amenity space, hard and soft landscape works or open space provision has been designed as an integral part of the development. These areas are located and "laid out in such a way as to maintain or enhance the local environment, incorporating existing natural vegetation and features wherever possible, for the benefit of the appearance of the development". It is notable that this wording does not require that all vegetation should be retained (3.25);
- The application material provides "adequate information to assess the scheme and its impact on the site and surroundings..." (3.27); and
- Primarily through the DAS, the requirements of paragraph 3.28 have been met in the preparation of the planning application.

5.36 The second part of Policy PSP 2 addresses landscape design and management, as follows:

*"Landscape Design*

*Amenity space, hard and soft landscape works and open space provision will be required to be of a high standard of design, appropriate to the use and character of the development and its location; and designed as an integral part of the development, incorporating existing landscape features where appropriate, for the benefit of the development proposal.*

*Landscape Management*

*Landscape features which contribute to landscape character, quality, amenity or local distinctiveness are to be retained and protected, and along with new landscape features, managed in a manner which ensures their long term health and viability.*

*Where landscape character has been degraded or eroded, development will be expected to contribute to the restoration of landscape character and distinctiveness."*

5.37 Much of this would be addressed through subsequent reserved matters applications, but at this stage as follows to these specific requirements:

- Due to the open space provision (in terms of area) being compliant with relevant open space policy, the fact that it incorporates existing hedgerows and trees, and that the design already shows a level of consideration to the amenity of users, the design role of PSP 2 is satisfied; and
- The appellant accepts the need to provide long term management to all retained exiting hedgerows and trees on site as part of a good practice and as part of the landscape mitigation. At the reserved matters stage the Council is able to control the future management of the entire site, including existing and proposed vegetation.

- 5.38 When the scheme is considered as a whole against the aspirations of policy PSP2, the appeal proposals “*conserve and where appropriate enhance the quality, amenity, distinctiveness and character of the landscape*” when considered against the key facets identified.
- 5.39 The appeal proposals would clearly impact a geographically discrete part of the Wickwar Ridge and Vale LCA in terms of a loss of openness and some small loss of landscape features, however, this particular parcel, relative to the wider landscape within the Borough and wider afield, is at the lower end of the hierarchy in terms of landscape value (NPPF Paragraph 174b). Harm to this therefore carries proportionately less weight in the planning balance.
- 5.40 Were ‘openness’, and impacts to this, considered to be the key characteristic resulting in a policy conflict, this would be tantamount to suggesting that no green field development (which always results in some loss of openness) was able to meet the policy test. This of course would be a stricter test than that presented by green belt.
- 5.41 In terms of the Framework guidance the Appellants case is that the appeal proposals ‘recognise’ and respond to the ‘intrinsic character and beauty’ of the receiving landscape and environment in line with the test set out by paragraph 174 (b) of the Framework.

#### **Heritage Effects – Accordance with Policy CS9 of the Core Strategy and Policy PSP17 of the Policies, Sites and Places Plan**

- 5.42 It is agreed between the parties that the these heritage assets with potential to be affected by the proposed development are:
- Wickwar Conservation Area;
  - Grade II\* listed building Frith Farmhouse, and
  - Grade II listed building South Farmhouse.
- 5.43 The latest consultation response from the Council’s Conservation Officer (dated 7.3.23, **Core Document 3.4**) confirms that, on balance and following further site visits since the original comments on the application, the officer agrees with the Appellant that the development will not cause any harm to the character and appearance of the Wickwar Conservation Area, or its setting in its function as contributing to the assets significance.
- 5.44 The Appellant is of the view that there is no harm to the Grade II\* listed building Frith Farmhouse. The conclusions of the Heritage Addendum (**Core Document 2.9**) are that the proposed development would be at most barely noticeable from the listed building and would have no implication for the experience of it from any element of its setting that does contribute to its significance. The latest position from the Council Officer (**Core Document 3.4**) is that there would be some harm through a change to the setting, that this would fall within the category of ‘less than substantial harm’, and that this would be ‘very limited’. The officer suggests that the application should be refused but confirms that the application should be considered within the context of paragraph

202 of the NPPF, and, therefore, that if material considerations outweigh the heritage harm the appeal should be allowed.

- 5.45 The Appellants are of the view that the development will result in a very minor degree of less than substantial harm to the significance of the Grade II listed South Farmhouse due to a change in character to part of its historically and functionally associated farmland setting, albeit the change only being clearly visible in conjunction with the farmhouse from the field to the immediate south. The Council are broadly in agreement and consider the harm to be towards the lower end of the scale of 'less than substantial'.

***Accordance with Policy CS9***

- 5.46 This policy provides the strategic level policy regarding heritage assets and states that in order to protect and manage the area's environment and resources development will be expected to ensure that heritage assets are conserved, respected and enhanced in a manner appropriate to their significance.
- 5.47 There are no designated heritage assets located within the site and so there would be no direct physical impact from the implementation of the proposed development in that respect. Any effects on designated heritage assets would arise from changes within the wider setting of those assets in a way and to an extent which could give rise to a loss of or damage to their heritage significance.
- 5.48 It is the Appellant's case that there would be only one asset on which the proposal would cause impact, the Grade II listed South Farmhouse, and that the impact on this asset, through a change to the setting, would be one of a very low level of impact at the lowest end of the scale of less than substantial harm. There would be some conflict with Policy CS9 in that the development would not conserve or enhance the setting of the asset. With respect of this policy, this harm should be considered in the context of the significance of the asset and in the contribution that the site makes to the significance, which is in this case an impact on the setting.
- 5.49 It is also worth noting that this policy is in effect a 'nil harm' policy, in that any development on any of the greenfields within the setting of the asset would fail to achieve the conservation or enhancement of the setting. In addition, this policy makes no provision for the consideration of public benefits, and so is inconsistent with the Framework, a conclusion the Inspector for the Barwood Appeal agrees with (paragraph 46 of **Core Document 5.1**).

***Accordance with Policy PSP17***

- 5.50 This policy seeks to protect, and where possible, enhance or better reveal the significance of heritage assets and their settings. They should be conserved in a manner that is appropriate to their significance. With regard to listed buildings, and specifically for development within the setting of listed buildings, the policy states that development should preserve and, where appropriate, enhance those elements which contribute to their special architectural or historic interest, including their settings.
- 5.51 The Policy goes on to explain how development which affects heritage assets will be assessed, namely that they should meet the following criteria;

- *the proposal results in public benefits that outweigh the harm to the heritage asset, considering the balance between the significance of the asset affected, the degree of harm and the public benefits achieved;*
- *there is no other means of delivering similar public benefits through development of an alternative site;*
- *the harm to the heritage asset is minimised and mitigated through the form and design of the development and the provision of heritage enhancements; and*
- *the heritage asset will be properly recorded to professionally accepted standards.*

5.52 The proposed development will not affect the fabric of any listed asset, and it is the Appellant's case that the proposals will only have a very minor degree of less than substantial harm to the South Farmhouse through a change in character to part of its setting. There is some conflict with this policy.

5.53 However, the Inspector for the Barwood appeal concluded that the requirement listed above to demonstrate that there is no other means of delivering similar public benefits through development of an alternative is not a test that is in national policy, and is, therefore, not consistent with national policy.

***Conclusion on conflict with the development plan in respect of Heritage***

5.54 It is the Appellants' case that there would be a very minor degree of less than substantial harm to a heritage asset (South Farmhouse).

5.55 There is some conflict with both Policy CS9 and PSP17, however, both policies are out of date given they conflict with the NPPF, and this conclusion is supported by the recent Barwood decision (**Core Document 5.1**). Any conflict with the policies must, therefore, be afforded less weight in the balance. A balanced judgement needs to be undertaken which has regard to the significance of South Farmhouse and the amount of significance it would lose as a result of the development.

**Urban Design**

5.56 The appeal proposals are submitted in outline with all matters reserved for future consideration. Notwithstanding that the Appellant considers the indicative masterplan, parameter plans and Design and Access Development to provide a clear indication of how a high quality and well-designed residential development can be achieved on the Appeal site, it is our case that the comments raised on Urban Design (and suggested Policy conflict with CS1, PSP1 and PSP11) are entirely matters that should be reserved for detailed consideration and that there is reason why an appropriate design solution cannot be agreed. We will seek to agree common ground with the Council on this matter.

**Legal agreement to secure the provision of affordable housing, the delivery and management of open space and necessary contributions towards wider infrastructure**

5.57 The Appellant envisages that the Council will have an objection to the appeal proposals on grounds of a lack of legal agreement to secure the provision of affordable housing; to secure the provision and management of public open space and to secure any other contributions for infrastructure as necessary to make the development acceptable.

- 5.58 Policy CS18 of the Core Strategy requires sites of 10 or more homes to provide 35% affordable housing on site. The Appellant proposes to accord with this policy with on-site provision of affordable units. It is expected that this, and other matters relating to contributions (including agreement on tenure, size of units etc) can be agreed with the Council in advance of the inquiry.
- 5.59 Similarly, the parties are yet to reach agreement on the nature and extent of highways mitigation required. Junction modelling shows that the level of traffic associated with the proposed development will not adversely affect the safe operation of the surrounding highway network. Overall, the proposed development accords with national and local transport policy and there is now no transport or highway reason why planning permission should not be granted. The Appellant will seek to reach agreement on the scope of highways mitigation required, to be secured through a draft s106 Agreement, in advance of the inquiry.

## **Other Matters**

### **Connectivity and Sustainability of Location**

- 5.60 There are a range of destinations and facilities within walking and cycling distance of the proposed development, and new pedestrian and cycle links will be accommodated within the detailed design of the site. As set out in the submitted Transport Assessment (**Core Document 1.5**), future residents of the proposed development will be able to walk or cycle to these facilities.
- 5.61 The Urban Design officer comments raise concerns around the lack of key local facilities and the need for future residents to rely on private cars. The officer links this comment to a lack of information available to provide confirmation that the proposed shop on the site will be delivered. The Appellant is of the view that the development proposed includes sufficient information to demonstrate that a shop can be accommodate on site; space is identified within the masterplan for this in a location that would be most likely to attract passing trade, given the proximity to Sodbury road, but that is also well integrated and accessible to the residents of the new development. Conditions or obligations to secure the delivery of the shop on this land within the site will be agreed with the Council ahead of the inquiry.
- 5.62 Concerns are also raised about the lack of pedestrian connectivity into the existing settlement. In response to this, and comments from the Highways Team with regards to accessibility amendments to the scheme were presented during the determination of the application and various additional features are proposed as part of the development now subject to determination at this appeal, namely;
- The introduction of a zebra crossing on the northern side of the southern access which will provide a direct walking route into the new proposed shop, as well as acting as an additional measure to help maintain the 30mph speed limit on Sodbury Road;
  - New village entrance gateway and road surfacing, which will assist in notifying drivers to the change of environment and re-enforcing the 30mph speed limit; and

- A new southbound bus stop is proposed south of Gullwel Drive which will reduce the distance residents of the new development and those in the surrounding area must travel to use the bus service.
- 5.63 The improvements identified and further enhance both the sites accessibility and sustainability credentials. The updates include potential for an additional PROW link to the North of the proposed development (allowing for possible diversion of existing route where it currently passes through an active farmyard), as well as other potential improvements on the existing highway network reflecting the recommendations of the submitted Walking, Cycling & Horse-Riding Assessment, at Appendix B of the NRP report submitted to the Council in February 2023 (**Core Document 2.3**). These improvements are provided alongside an existing good network of existing footways linking the site to the surrounding area and a range of local facilities are within acceptable walking and cycling distances.
- 5.64 The Appellants are of the view that the site is accessible by sustainable modes of transport including walking, cycling and bus.

#### **Energy and Sustainability**

- 5.65 The Climate and Nature Emergency Team have provided some detailed comments about the energy usage and specification of the proposed homes. The Appellant has confirmed to the Council that 100% coverage of EV charging points will be provided on the site, and PV will be installed on all viable (southerly facing) plots. The Appellant is happy to agree to planning conditions in order to secure any other schemes for renewable technologies or specifications for the proposed units on the site.

#### **Ecology**

- 5.66 The consultation response provided in response to the amended plans and additional information submitted in early 2023 confirms that the officer is now satisfied that the information submitted is acceptable. The latest consultation response (**Core Document 3.5**) confirms the scheme demonstrates ecological enhancements, will deliver circa 35% net gain, and that sufficient measures have been provided to mitigate impact from recreational pressures on the Lower Woods SSSI. The response confirms no additional information is required prior to the determination of the application and suggests some conditions be applied to any approval which the Appellant is content to accept.
- 5.67 The Appellant's case is that the proposed scheme is capable of compliance with relevant planning policy for the conservation of the natural environment at all levels, and that an appropriate, ecologically sensitive, development solution can be achieved on the site.

#### **Archaeology**

- 5.68 The Council are content with the quality and findings of the information submitted with the application on archaeology (**Core Document 1.12**), albeit requested that geophysical surveys are undertaken prior to determination and that if it is demonstrated that the site is of limited archaeological potential then other archaeological matters can be dealt with under a condition.
- 5.69 The Appellant considers that the archaeological information submitted with the application is sufficient to enable a conclusion to be reached that there would be no

adverse effects to any archaeology of significance. Notwithstanding this, the Appellant has now agreed to undertake the additional, geophysical surveys and will present the findings of this work ahead of the inquiry. The Appellant will work with the Council to seek to reach agreement that any further archaeological work, if deemed necessary, be subject to a condition of any consent granted for the appeal.

### **Public Open Space**

5.70 In order to indicatively demonstrate that the site can accommodate the quantum of development proposed while delivering a high quality scheme, indicative plans were submitted including an illustrative masterplan (**Core Document 2.1**). The illustrative masterplan and Design and Access Statement (**Core Document 2.2**) show the opportunity to provide for approximately 2.68ha of public open space and green space (34% of the total site area).

5.71 The proposed development will deliver a network of attractive public open space as part of the Green Infrastructure strategy for this site as shown on the submitted Landscape Strategy Plan and Illustrative Masterplan. The proposals include;

- Natural and Semi Natural Open Space;
- Informal Recreational Open Space;
- Allotments; and
- Play space including a LAP and a LEAP.

5.72 The Design and Access Statement provides a breakdown of the proposed quantity of each category of Open Space as defined by the local Open Space Standards. A comparison between the Policy compliant requisite quantum of each category and the proposed level of provision on site is provided. For all categories the proposed development either meets or exceeds the required level of provision, with the exception of sports provision where an off-site contribution may be required.

5.73 The appeal proposals are submitted in outline with all matters reserved for future consideration including landscape (and public open space). The Appellants are of the view that the information submitted with the application demonstrates that, in principle, the development can be accommodated on site and provide in excess of the policy requirements for provision of on site open space (with the exception of sports provision).

### **Impact on existing Trees**

5.74 The northern proposed access point requires the removal of two trees from a cluster in this location. This tree loss is necessary in order to facilitate this access point, an important aspect of the proposals and one that will help secure improved pedestrian and cycle connectivity from the site into the village to the north. The Tree Officer objects to the loss of these trees, but does caveat that if the application were to be granted then significant mitigation planting should be provided.

5.75 The illustrative Landscape Strategy Plan (included as Appendix EDP2 to the Ecological Appraisal Addendum) demonstrates that the intention for the scheme is to

accommodate a significant amount of additional tree planting. The Appellant is of the view that the loss of trees required in order to facilitate site access can be sufficiently mitigated through additional planting, and that the details of this can be determined at a later stage as part of the landscape details provided with the reserved matters submission.

### **Self-Build Plots**

- 5.76 Policy PSP42 requires 5% of the development to be provided as self-build plots, equating to circa 9 homes. Further detail in relation to the delivery of custom and self-build plots has been requested by the relevant officer. However, at this stage, the scheme is submitted in outline form only and the requisite detail sought is not yet set out for determination.
- 5.77 The Appellant is content to provide a policy compliant level of self-build plots, and to do this in accordance with the requirements of the Council including the design detail, clustering and servicing arrangements. The details around this can and should be considered at the reserved matters stage of the proposals.

### **Noise**

- 5.78 A Noise Assessment was submitted with the planning application, and mitigation measures have been suggested to reduce the impact of road traffic noise and existing industrial noise at proposed dwellings. These mitigation requirements can be confirmed as a reserved matter, on a plot-by-plot basis, once a detailed design layout is available. The Council has raised no objection to the proposals on noise grounds.

### **Other Material Considerations**

#### **The Status of the Development Plan**

- 5.79 The Core Strategy was adopted in December 2013. The housing requirement on which the spatial strategy is based is reliant on a Strategic Housing Market Assessment (SHMA) that pre-dated the National Planning Policy Framework. It therefore had no regard to the duty to co-operate or to consider the needs of the wider Housing Market Area (HMA). Although the Examining Inspector found the Core Strategy sound, this was on the basis that an early review would be undertaken based on a Framework-compliant SHMA. No updated SHMA has been produced for the HMA as the relevant local authorities have been unable to agree a joint approach.
- 5.80 The housing requirement in the Core Strategy and the settlement boundaries that depend on it, are, therefore, not compliant with the Framework and are out-of-date. The policies which are the most important for determining the application in the adopted development plan are also out of date.
- 5.81 These findings were confirmed recently in two appeal decisions in South Gloucestershire; Land south of Badminton Road, Old Sodbury (ref. 3303905) and Land to the west of Park Farm, Thornbury (3288019).
- 5.82 Appeal ref. 3303905 (**Core Document 5.2**) for Redcliffe Homes was allowed in January 2023 for 35 homes at Old Sodbury. Paragraphs 8 and 9 of this decision sets out the following with respect to the current Development Plan situation in South Gloucestershire;

*8....the Core Strategy was submitted before the 2012 version of the National Planning Policy Framework was published including its duty to cooperate. As the Core Strategy's housing requirement did not take account of the wider Bristol housing market area, the Examining Inspector set out the need for a review of the Core Strategy, and for the review and new plan to be in place by 2018. No review has taken place, and two attempts at sub-regional planning have not progressed. The Council is now preparing the South Gloucestershire Local Plan (emerging plan)...*

*9... It is in its early stages, and the evidence base is being prepared with the adoption of strategic policies to be in 2025 at the earliest. As such, the Council does not currently have a plan-led approach to housing development that accounts for the wider housing market area.*

- 5.83 The Inspector goes on to find that the settlement boundary policies are not capable of meeting development needs and must therefore be considered out-of-date (paragraph 15). They also confirm at paragraph 46 that the most important policies for determining the appeal, namely Core Strategy Policies CS5 (settlement boundaries) and CS34 (rural exception sites), and PSPP Policies PSP40 (CS34 (rural exception sites), and PSP11 (transport impact management), are also out of date.
- 5.84 Whilst the Inspector in this decision notes that there is disagreement between the parties on whether or not there is a five year supply (4.64 years v 5.64 years) they do not come to a clear conclusion on this point. They do however, find that that tilted balance is engaged by virtue of the development plan being out of date due for other reasons; the Core Strategy was submitted before the 2012 NPPF was published, the housing requirement does not take Bristol's needs into consideration, there was a requirement to review the plan by 2018 and that never happened, the settlement boundaries have not been reviewed and are out of date (paragraph 46).
- 5.85 Appeal ref. 3288019 (**Core Document 5.1**) for Barwood Development Securities Ltd was allowed in February 2023 for 595 homes at Thornbury. Like the Redcliffe Homes decision, this Inspector also considers the evidence base to the Core Strategy, noting that;

*The housing requirement on which the spatial strategy is based is reliant on a Strategic Housing Market Assessment (SHMA) that pre-dated the National Planning Policy Framework (the Framework). It therefore had no regard to the duty to co-operate or to consider the needs of the wider Housing Market Area (HMA). This includes Bristol, which is unable to meet its housing needs within its own boundaries. Although the Examining Inspector found the CS sound, this was on the basis that an early review would be undertaken based on a Framework-compliant SHMA. It was anticipated that the new SHMA would be produced by 2015 and thus the Examining Inspector considered that the requirement to review the CS by 2018 would be reasonable. (paragraph 10)*

- 5.86 This leads to the conclusion that:

*In the circumstances, the housing requirement in the CS and the settlement boundaries that depend on it, is not compliant with the Framework and is out-of-date. This is*

*regardless of the five year housing land supply position, which I consider later.*  
(paragraph 12)

- 5.87 The overall conclusion was that the tilted balance is clearly engaged, this time for two reasons;

*The most important policies in the determination of this appeal are policies CS5, CS9, CS34 and PSP17. For the reasons I have given I consider that they are not consistent with national policy in the Framework and are therefore out-of-date. Even if that were not to be the case, the Council is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 11d) in the Framework is engaged. There are policies in the Framework that protect designated heritage assets but for the reasons given above the appeal proposal does not conflict with these policies so there is no clear reason for refusing it on these grounds. Paragraph 11d)i) does not therefore apply in this case, which means that the appropriate approach is to apply the tilted balance under paragraph 11d)ii) of the Framework.* (paragraph 169)

- 5.88 Our view is that the two decisions are clear that the tilted balance is engaged in South Gloucestershire as a result of the current Development Plan status. This is unlikely to be resolved in the short term as even on the Council's best anticipated timetable no new plan will be adopted before July 2025.

- 5.89 The implications of the most important policies in the plan being out of date are significant. As confirmed by paragraph 11 of the NPPF, housing policies should be considered out of date and housing proposals should be considered in the context of the tilted balance set out at Paragraph 11(d) of the NPPF. This requires planning permission to be granted, unless:

- i. the application of policies in the 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 the Framework taken as a whole.

- 5.90 There are no specific policies in the Framework that indicate the development should be restricted. This includes heritage where, whilst it is the Appellant's view that there is less than substantial harm, it will be shown that, in accordance with paragraph 202 of the Framework, the public benefits outweigh the less than substantial harm. As a result, the appeal proposals should turn to be considered against paragraph 11 d) ii. of the Framework and the Appellant will present evidence to show that there are no adverse impacts that would significantly and demonstrably outweigh the benefits.

#### **Five Year Housing Land Supply**

- 5.91 An important material consideration for this Appeal includes the requirement in the NPPF, at paragraph 74, for Council's to demonstrate an up-to-date housing land supply. Paragraph 74 of the NPPF requires local planning authorities to identify and update annual a supply of specific deliverable sites sufficient to provide a minimum of five

years' worth of housing against their housing requirement or against their local housing need where strategic policies are more than five years out of date.

- 5.92 The latest housing land supply position from the Council is set out in the 2022 AMR published in March 2023. This covers the period 2022/23 to 2026/27, it claims a deliverable supply of 7,673 homes against a requirement based on standard method derived LHN and a 5% buffer of 7,287 homes (a surplus of 386 homes) equating to 5.26 years supply.
- 5.93 The Appellant will show in evidence that there are a number of sites in the Council's claimed supply that do not meet the definition or deliverable in the NPPF, or where there is clear evidence that less homes will be delivered on those sites in the five year period than claimed by the Council. The Appellants are of the view that the Council is not able to demonstrate a five year deliverable supply.
- 5.94 The implications of being not able to demonstrate an up-to-date five-year housing land supply are significant and, as confirmed by paragraph 11 of the NPPF, without a five-year housing land supply, housing policies should be considered out of date and housing proposals should be considered in the context of the tilted balance set out at Paragraph 11(d) of the NPPF.
- 5.95 Overall, it is clear that the NPPF is an important material consideration in this case and particularly the requirement to both boost housing supply and maintain supply of specific deliverable sites sufficient to provide five years' worth of housing.
- 5.96 There are no specific policies in the Framework that indicate the development should be restricted and so, the Appellant will present evidence to show that there are no adverse impacts that would significantly and demonstrably outweigh the benefits.
- 5.97 The development's potential to contribute to the Council's housing land supply in the next five years is a material benefit that should be afforded significant weight in the overall planning balance. There are also other significant benefits, as outlined in the next section of this SoC, including the delivery of affordable homes and economic, social and economic benefits that are material to the overall planning balance.

## **The Planning Balance**

### **The Benefits of the Proposal**

- 5.98 Starting with a summary of the benefits, this Statement confirms the important and significant benefits of the Appeal Proposals as follows;

#### ***Delivery of New Homes***

- 5.99 In the context of the shortfall in housing supply (that the Appellants will demonstrate through detailed evidence to the Inquiry) and the contribution this scheme can make towards addressing those shortfalls, significant weight should be attributed in the planning balance to the delivery of additional housing.

#### ***Delivery of Affordable Homes***

- 5.100 The Appellants will present evidence that there is an acute need for more affordable housing and the benefit of 35% affordable housing weighs heavily in favour of the

application. The Appellants will show that the delivery of affordable homes is a benefit that should be afforded at least significant weight.

#### ***Economic Benefits***

- 5.101 The Appellants will show that there are a number of direct and indirect economic benefits that will result from the development, including through the provision of a new local shop on the site. The economic benefits of the proposed development should be afforded significant weight in the planning balance, as required by paragraph 81 of the NPPF.

#### ***Social Benefits***

- 5.102 The social benefits of the proposal include the delivery of a range of housing types, including affordable homes. The proposals will deliver a policy compliant level of affordable housing, which for this area is 35%. This is a clear social benefit.
- 5.103 Continued growth at the settlement will help support strong, vibrant and healthy communities which is in accordance with both national and local policy. Wickwar previously had a village shop but this closed in 2018, the absence of a shop in the village is notable at this time and the provision of a new shop would be a significant social benefit in its own right.
- 5.104 In addition the development will deliver on site public open space which will provide opportunities for social interaction, as well other social benefits such as improved pedestrian links through the site northwards into the existing village. The social benefits should be attributed moderate weight.

#### ***Environmental Benefits***

- 5.105 In landscape terms it is worth noting that the development site is not currently open to public access. The development proposals will include pedestrian and cycle routes through the site providing connectivity through the site into the surrounding village. The development would open up the land to the public and the layout can create additional local space for recreation and leisure, along with play areas which will be of benefit to both existing and future residents.
- 5.106 The identified environmental benefits including the retention and enhancement of the existing hedgerows, and provision of new trees and hedgerows and the overall delivery of net gains in biodiversity should be afforded moderate weight.

#### **The Adverse Effects of the Appeal Proposal**

Any conflict with the Development Plan

- 5.107 Starting with the Development Plan; it is acknowledged that there is some conflict with Policies CS5, CS34, CS9 and PSP17. However, the most important policies for determining the application, including CS5 and CS34, are out of date, and as a result, the tilted balance at paragraph 11 d (ii) of the NPPF is engaged. Overall, the Appellant's view is that, as a result of the most important policies for the determination of the appeal being out of date, Policy CS4a is applicable. It is the Appellant's view that the appeal proposals would not result in any adverse effects that significant and demonstrably outweigh the benefits of the proposals – as such, the appeal proposals are considered to be in accordance with policy CS4a and with the development plan as a

whole. Rather than weighing against the appeal proposals, a finding that the appeal proposal are in accordance with the Development Plan, should be considered in favour of allowing the appeal.

- 5.108 However, if the Inspector disagrees with the Appellant and finds there to be overall conflict with the Development Plan then, in light of the most important policies being out of date, limited weight should be afforded to any such conflict.

#### ***Heritage Effects***

- 5.109 It is the Appellant's case that that the development will result in a very minor degree of less than substantial harm to the significance of the Grade II listed South Farmhouse due to a change in character to part of its historically and functionally associated farmland setting.
- 5.110 In accordance with paragraph 202 of the NPPF, the public benefits are found to clearly outweigh any less than substantial harm to a heritage asset. Policies on heritage in the Framework do not provide clear reason for refusal for this proposal. Nevertheless, in accordance with paragraph 199 of the NPPF, great weight should be given to any harm to heritage assets.

#### ***Landscape harm***

- 5.111 It is the Appellant's case that the development will respect the character and appearance of Wickwar and will result in a development of high quality design, and so this matter should be afforded weight in favour of granting planning permission.
- 5.112 In respect of landscape effects, the appeal proposals would impact a geographically discrete part of the Wickwar Ridge and Vale LCA in terms of a loss of openness and some small loss of landscape features, however, this particular parcel, relative to the wider landscape within the Borough and wider afield, is at the lower end of the hierarchy in terms of landscape value (NPPF Paragraph 174b). Harm to this therefore carries proportionately less weight in the planning balance.
- 5.113 The appeal proposals reflect an appropriate scale of development in this location, which recognises existing landscape and settlement character. Overall, the Appellant's case is that any landscape and visual effects resulting from the addition of the proposed scheme continuing to be localised in geographic extent and contained within a c.700m radius of the site. This effect should be afforded only moderate weight.

#### **Overall Planning Balance**

- 5.114 Following the Appellants' consideration to the weight to be given to both the benefits and adverse effects, Table 2 below provides a summary of the benefits of the proposed development alongside the adverse effects and the weight that the Appellants consider should be attached to each.

**Table 2: Summary of Benefits and Effects and weight to be attributed**

Positive Benefit		Adverse Effect	
Effect	Weight	Effect	Weight
Delivery of Homes	Significant Weight	Conflict with the Development Plan	Limited Weight
Delivery of Affordable Homes	Significant Weight	Localised Landscape Impacts	Moderate Weight
Delivery of the Shop	Significant Weight	Heritage Effects	Great Weight
Economic Benefits	Significant Weight		
Social Benefits	Moderate Weight		
Environmental Benefits	Moderate Weight		

- 5.115 As can be seen from Table 2, there are limited adverse effects in this case and substantial benefits of the proposals.
- 5.116 In this case, the presumption in favour of sustainable development is engaged (as set out at paragraph 11 d ii of the NPPF, and repeated in Policy CS4a of the Core Strategy) whereby planning permission should be granted unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.
- 5.117 There are no adverse impacts that would significantly and demonstrably outweigh the benefits and so planning permission should be granted in accordance with policy CS4a of the Development Plan and paragraph 11 of the NPPF.

## Summary and Conclusions

- 6.1 The proposed development is for the construction of up to 180 dwellings and a local shop on land at Sodbury Road, Wickwar. The application was submitted in outline form with all matters reserved except for the primary access points.
- 6.2 This appeal is against the non-determination of the application and the Council has not provided any reasons for refusal. This Statement of Case has set out what the Appellants consider likely to be the Council's objections to the proposals.
- 6.3 Starting with the Development Plan, it is acknowledged that there is some conflict with Policies CS5, CS9 and CS34 of the Core Strategy and PSP17 of the Policies, Sites and Places Plan. However, it will be shown that the most important policies for determining the application, including CS5 and CS34 are out of date, and that as a result the tilted balance at paragraph 11 d (ii) of the NPPF is engaged.
- 6.4 Overall, the Appellant's view is that, as a result of the most important policies for the determination of the appeal being out of date, Policy CS4a is applicable. It is the Appellant's view that the appeal proposals would not result in any adverse effects that significant and demonstrably outweigh the benefits of the proposals – as such, the appeal proposals are considered to be in accordance with policy CS4a and with the development plan as a whole. Rather than weighing against the appeal proposals, a finding that the appeal proposals are in accordance with the Development Plan, should be considered in favour of allowing the appeal.
- 6.5 However, if the Inspector disagrees with the Appellant and finds there to be overall conflict with the Development Plan then, in light of the most important policies being out of date, limited weight should be afforded to any such conflict.
- 6.6 The Appellants will present evidence to show that there are no adverse impacts that would significantly and demonstrably outweigh the benefits. Those adverse effects would rightly include any adverse effects as a result of any conflict (and harm arising from that conflict) identified with other policies in the Development Plan. The benefits of the proposed development are substantial and include the delivery of both market and affordable housing along with economic, social and environmental benefits. There are limited adverse effects in this case and they do not outweigh the significant benefits of the proposals, let alone significantly and demonstrably outweigh those benefits.
- 6.7 As such, for the reasons set out in the Statement of Case, which will be expanded on through the submission of evidence to the inquiry, the Inspector will be respectfully requested to allow the appeal and grant planning permission for residential development and a new shop on the Appeal site.
- 6.8 It has been demonstrated why an inquiry would be the most appropriate procedure for determining this appeal. A specific statement on this matter is included with this submission. The Appellants would anticipate calling witnesses to deal with the following issues;

- Planning;
- Five Year Housing Land Supply;
- Affordable Housing; and
- Landscape and Visual Impact.

6.9 The Appellants would also anticipate the possibility of calling witnesses to deal with the following matters, in the event that they were not resolved and/or if they are required to respond to third party representations;

- Heritage;
- Archaeology;
- Highways/Accessibility; and
- A solicitor in respect of the Section 106 agreement.

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