

**LAND AT SODBURY ROAD, WICKWAR,**

---

**SOUTH GLOUCESTERSHIRE COUNCIL'S  
CLOSING SUBMISSIONS**

---

***Introduction***

1. Planning permission should be refused for this proposal and this appeal should be dismissed. It is agreed that the tilted balance is engaged whether that be through policy CS4A of the Core Strategy or because the spatial strategy policies, CS5 and CS34, in the Core Strategy are out-of-date and paragraph 11(2)(d)(ii) of the NPPF is engaged.
2. The whole focus of each party's case is therefore whether the adverse impacts of this proposal significantly and demonstrably outweigh its benefits. The answer to that question determines whether the proposal is or is not in accordance with the development plan and whether permission should be granted or refused for this proposal.
3. We submit that it is clear that the adverse impacts of this proposal do significantly and demonstrably outweigh its benefits for the reasons we set out below.
4. In these closing submissions we have approached the matter of weight on the basis of the categorisation set out in the West of Park Farm decision, adopted by the officer in the report to committee on this matter and adopted by Ms Fitzgerald. Mr Richards

agreed that with hindsight he should have adopted the same weighting categorisation that had been used in relation to the appeal up until the production of his evidence. This has clearly caused confusion and rendered the Statement of Common Ground on weight now no longer capable of being relied upon. In cross-examination Mr Richards agreed that where he has used significant this is his highest categorisation and is equivalent to Ms Fitzgerald's substantial and in these submissions we treat substantial as the highest category in order to be able to compare the different positions of each side.

5. We submit that there are five areas where harm would accrue in relation to this proposal and we submit that the adverse impacts of these harms would significantly and demonstrably outweigh the schemes benefits. These harms are that the proposal would:

- I. Be a car borne development;
- II. Have an unacceptable impact upon landscape character and visual amenity;
- III. Result in heritage harm to the significance of the Grade II listed South Farm and Grade II\* listed Frith Farm;
- IV. Generate ongoing recreational pressure on the SSSI;
- V. Conflict with the Spatial Strategy.
- VI. We now turn to address these harm.

#### ***Car borne development***

6. Wickwar is an unsustainable location with poor facilities and a poor bus service leaving its residents dependant on car use. It has limited access to key services and facilities that are within walking or cycling distances. It has no comparison or convenience shopping, no weekly superstore or supermarket, no smaller convenience shop, no health services, no pharmacy, post office, or secondary school. Whilst it is accepted that it has

a primary school, a public house and some employment<sup>1</sup>, the reality is that residents need to travel to access most of the key services and facilities including large employment locations located in the large urban areas of Bristol.

7. That this location is a car borne location has always been recognised by the Council and is also recognised by the Appellants, hence their proposed bus improvements through option 6 and shop.

### ***East of Sodbury Road***

8. The Appellants make numerous references to the development permitted by the Council on the eastern side of Sodbury Road in 2016 and 2017. However the context and circumstances of why permission was granted for those developments needs to be understood. Permission was granted not because Wickwar is not a car borne location but in spite of the fact that it is largely due to the Council's acceptance at that time that it did not have a five year supply.
9. At that time when there was a local shop and a superior, albeit still limited, bus service it was recognised that these were *less than ideal* locations that would *rely on outward commuting cars.*<sup>2</sup> and that "*reliance on motor vehicle access to facilities is harm that results from the proposal*" and that this weighs against permission. Since that time the situation has worsened with a reduced bus service and the closure of the village shop.
10. The Appellants proposed shop, the Council suggest, is very far from certain, given that there is no conditional agreement in place to actually secure its operation (despite we are told a willing operator) and given a potential three year marketing period in the s.106 obligation. Even if it was delivered the position would merely revert to that which existed in 2016/17 where despite the existence of a village shop it was still regarded as a car borne location.

---

<sup>1</sup> It is accepted that it was wrongly put to Mr Knight that there was no safeguarded employment area. However the officer's report to committee in relation to South of Poplar Lane considered Wickwar was some distance from major employment (see CD6.14 pdf p 15;35 & 43).

<sup>2</sup> See above

11. Although the transport evidence that this inquiry has had to grapple with may be somewhat technical and complex, the Council's case on transport is very simple. The Appeal Scheme would be a car borne development, regardless of whether a viable bus service can be secured through a developer contribution and revised service which it cannot. We go on to explain why that is so below.

### ***Current service provision***

12. Wickwar is currently served by the subsidised Big Lemon 84/85 service and the DRT westlink service. These services are unviable, provide an inadequate and unattractive bus service and have no certainty of continuation beyond their current funding periods of 2024 and 2026 respectively.
13. Mr Knight and the Council agree that the existing Big Lemon 84/85 bus service is *unattractive because of its low frequency and indirect route*”<sup>3</sup> In cross examination, Mr Knight accepted that the current Big Lemon 84/85 service does not satisfy the policy requirement in PSP11 3(ii) on what constitutes a minimum appropriate public transport service to render development that will generate a demand for travel acceptable, as defined at para 5.24 of the Policies, Sites and Places Plan 2017.<sup>4</sup> o
14. However he sought to rely on the DRT Westlink service as an adjunct to the Big Lemon 84/85 in trying to suggest that somehow in combination a minimum appropriate public transport service existed. This suggestion should be rejected. DRT Westlink is a subsidised bus service until April 2026. The current available WECA report on this service, which Mr Knight himself produced, suggests that there have been problems with it and that significant changes to the way it operates need to be made. This is corroborated by anecdotal evidence from a Wickwar parish councillor to the inquiry. Indeed Mr Knight himself states that *it is too early to understand how successful this initiative has been at attracting bus users*. Moreover, when exploring the reliability of the DRT Westlink service, Mr Knight accepted that because those seeking to use the service will not know the route it will take at the time of booking, they may be waiting

---

<sup>3</sup> Mr Knight's rebuttal CD 7.32 para 2.1.4

<sup>4</sup> CD 4.5.

over an hour for the service to arrive. Indeed Mr Knight accepted this by seeking to suggest that residents would drive to Yate and catch the train so whilst the development would be car borne it would only be so for short journeys. However this is speculation and no reliance can be placed on it. Once a resident is in their car it is far more likely we suggest that they will drive to their destination wherever that may be and for whatever purpose they may be travelling. Using the park and ride at Yate is only likely to be for those that do not have a parking facility at their destination point and this is a complete unknown.

15. Essentially, Wickwar residents currently have an infrequent, unreliable “dial a ride” service and an unattractive, slow 84/85 conventional service that fails to meet policy requirements for a minimum appropriate public transport service. That this is so is evidently obvious because of the Appellant’s attempts to make good this serious shortcoming in Wickwar’s bus provision by producing Mr Knight’s option 6. This proposes an hourly service between the hours of 6am and 10pm with half hourly service in the am (8am and 9am) and pm (5pm to 6pm) peaks. The problem is that option 6 is patently unviable. This is demonstrated by the evidence of Mr Moss and the fact that there is no evidence from any bus operator that they would take on such an option and run it.

#### ***Option 6***

16. In order to overcome the longstanding difficulties with public transport provision in Wickwar Mr Knight has sought to redesign the current 84/85 route which he presents as option 6. It is patently clear that when the likely patronage, revenue and funding are properly considered this option produces a deficit of just under £.6m per annum and would therefore require an ongoing subsidy of that amount in perpetuity in order for it to operate.

#### ***Patronage***

17. As explained by Mr Moss in his written and oral evidence, the Appellant’s patronage estimates for Option 6 are significantly and unrealistically inflated. The extent of the difference between Mr Moss and Mr Knight on patronage is brought into stark focus

by Mr Moss' calculation that the Appellant's modelling estimates 93% more patronage for Option 6 than the Council.<sup>5</sup>

18. Mr Moss' table at para 3.2.10 of his Rebuttal Proof<sup>6</sup> sets out the differences between the parties, and how he arrived at his lower, more realistic calculations of likely patronage both for commuters and other purpose trips.
19. In order to calculate the likely mode share by bus for commuter trips the first part of Mr Moss' table sets out the patronage that would be generated along the option 6 route by those travelling to work. The Podaris model has been used to generate the uplift in those that currently use the Big Lemon 84/85 bus service to travel to work (3.3%) to those that would use the option 6 route (8.73%). The utilisation of the Podaris model for this purpose is agreed as is the 5.34 percentage point uplift of people travelling to work by bus. The parties also agree that by applying that uplift to those people aged between 5 and 59, who live within 400 metres of a bus stop on the Option 6 route, would result in 160 future bus commuters per day using the option.
20. However whilst the starting point figure of 160 commuters per day using Option 6 is agreed, it is clear that Mr Knight's calculation that these commuters would generate 83,200 commuter trips to and from work per year is wrong. Unlike Mr Moss, Mr Knight has assumed that all commuters go to work five days a week, 52 weeks a year. The assumption that commuters go to work on the bus five days a week, 52 weeks a year is clearly unrealistic.
21. Alternatively, Mr Moss, has, quite rightly, made adjustments on the basis that not every commuter goes to work every weekday of every week, all year and has made adjustments for part time workers and those that may work from home some days and that commuters take four weeks holiday a year. This lower figure accounts for the statistics that 30% of part time workers in South Gloucestershire are part time.<sup>7</sup> Even in the absence of these statistics it is common sense that adjustments should be made to take into account these factors and Mr Knight's insistence in cross-examination that these factors are "*irrelevant*" is nonsensical.

---

<sup>5</sup> CD 7.29, para 3.2.11.

<sup>6</sup> CD 7.29, para 3.2.10.

<sup>7</sup> Mr Moss Rebuttal CD 7.29, para 3.2.8.

22. Contrary to Mr Knight's approach, Mr Moss' calculations reasonably and realistically make allowance for the fact that not all commuters will travel to work every day and that they will take a holiday. These adjustments result in a reduction in the number of bus trips by commuters to 61,440 trips per year.
23. The Council submits that on patronage levels for commuters, Mr Moss' calculations should be preferred.
24. Mr Moss, having arrived at a figure for the number of commuters that will use the option 6 bus service then seeks to calculate the number of trips that would be made by those living along the option 6 route for other purposes. He uses the National Travel Survey statistics to do so. The NTS tells us that 17% of all bus trips are made by commuters and this figure is agreed by Mr Knight<sup>8</sup>. Mr Moss then grosses up the commuter trips to 100% to ascertain the number of other purpose trips that are not for commuting purposes that would be made by bus. It follows that the Mr Knight's estimate of 299,972 bus trips for other purposes is taken by grossing up to 100% the number of bus trips made to and from work i.e. 61,440 (17%). Once commuting trips and other purpose trips are combined option 6 would produce an annual patronage figure of 361,412 trips. Mr Moss' approach is both transparent and uses NTS data and has a logical consistency to it<sup>9</sup>.
25. Mr Knight has taken a completely different approach. He has used the percentage point uplift of those who will use option 6 to travel to work i.e. the 5.43% figure and converted this into a trip rate that he has then applied to all those aged between 5-59 who live along the route in order to arrive at a patronage figure for other purpose trips. He confirmed that this was not a Podaris-generated calculation but one that he had decided to apply himself. He claimed that this was a standard method but agreed it was not a national standard just a method used by himself and other unnamed companies. Mr Knight's approach produces a figure of 614,172 for other purpose trips and a combined figure for bus trips of 697,372. This produces a rate of 166 trips per

---

<sup>8</sup> Mr Knight Rebuttal CD 7.32 Table 2.1 page6/14

person trip per year along the option 6 route. Mr Moss explained that in his view it is not appropriate to take a mode share for commuters and use it in this way<sup>10</sup>. It is also notable that Mr Moss' evidence on how he calculated likely annual patronage levels along the proposed Option 6 route went entirely unchallenged. His figures generate an annual trip rate of 86 trips per person.

26. Taking a momentary break from mathematical calculations, a particularly illustrative "sense check" on the Appellant's inflated patronage figures is the fact that its patronage estimates closely resemble those of Brighton and Hove which has the highest number of bus trips in England outside of London of 171 trips per person and has a dense network of buses operating at high frequency amounting to a turn up and go service seven days a week and night buses in areas with lower than average car ownership. Nottingham is similar with 145 trips per person per year. It is implausible that a rural service running every half hour in the peak hour and outside that every hour in rural South Gloucestershire with higher than average car ownership would be equivalent to this.<sup>11</sup>

27. It is submitted that Mr Moss' credible, realistic, transparent and evidence-based calculation of likely patronage levels for Option 6 should be preferred to those of Mr Knight which lack these attributes.

28. It is agreed that if Mr Moss' patronage figures are preferred over Mr Knight's that irrespective of whether Mr Moss' or Mr Knight's fare levels or costs are used the proposed option 6 service is not viable. However for completeness these matters are addressed below.

---

<sup>10</sup> Mr Moss confirmed that the preliminary nature of his analysis in Appendix 7 before he had the benefit of discussing the Appellant's chosen methodology with Mr Knight means that it would be incorrect for the Inspector to rely on his calculations at page 7 of the Appendix for the purposes of this inquiry. As such, he confirmed that he was not relying on this own analysis and was not challenged on this. Mr Knight's written evidence makes this clear and this was confirmed in cross-examination

<sup>11</sup> CD 7.29, paras 3.2.14-3.2.15.

### ***Revenue and costs***

29. Mr Moss explained that Mr Knight's £2.32 average fare yield for a single trip is too high. Current fare levels on the 84/85 are £2 for an adult single fare and £3.50 for an adult return fare. Mr Knight's proposed fare constitutes a significant, unjustified increase on current levels. As explained by Mr Moss in his written and oral evidence, given that many trips are return trips and people tend to avail themselves of weekly and monthly passes, half of the adult return is a more realistic starting point for estimating average fare yield. Half of the adult return fare is £1.75; with multi-use tickets and child fares, an average yield per trip of £1.50 is more realistic.<sup>12</sup>
30. The costs of operating option 6 used by Mr Knight and Mr Moss of £1,472,613 and £1,107,516 respectively are broadly comparable and we do not propose to comment on this further.
31. Overall using Mr Moss' patronage levels and fares (and his costs which are lower than Mr Knight's) produces an annual operating loss of £565,398 and clearly the proposed Option 6 service is not viable.<sup>13</sup>
32. The evidence clearly demonstrates that the appeal proposal would be located in an unsustainable, rural village with limited services and facilities and an inadequate, subsidised bus service that does not meet the minimum requirements for a public transport service as required by policy PSP 11 3(ii). The proposed small convenience shop, which we suggest is uncertain, would not fundamentally alter this reality. There is no viable alternative bus option. The development would be car-dependent and for this reason is contrary to Development Plan Policies CS8 and PSP11 which are agreed are most important policies for determining this proposal and up to date<sup>14</sup>. The unsustainable, car-borne nature of the Appeal Scheme is a serious adverse impact and we suggest should attract substantial weight in the planning balance.

---

<sup>12</sup> CD 7.29, para 3.3.6.

<sup>13</sup> CD 7.29, para 4.1.1.

<sup>14</sup> Appellant's opening submission Appendix 2 ID4

***Unacceptable impact upon landscape character and visual amenity***

33. The Council’s landscape case consists of an in-principle objection to the location, scale and massing of the Appeal Scheme because it would be and be perceived as a backland, outlier development encroaching into open countryside.
34. In considering the landscape impacts of the Appeal Scheme, the Inspector can note that it is agreed between the two landscape experts that the Appeal Scheme would cause adverse impacts to the character and appearance of the area including in terms of its visual impact. Both experts also agree that the landscape character of the Appeal Site and its wider Landscape Character Area is one of medium sensitivity.<sup>15</sup>
35. The difference between the parties lies in the degree of harm caused and whether this harm should attract significant weight (the Council’s position) or moderate weight (the Appellant’s position).<sup>16</sup>

***Impact on the character of the appeal site and surrounding landscape area***

36. As identified by the South Gloucestershire Landscape Character Assessment, the Appeal Site is located within Landscape Character Area (LCA) LCA 5 – ‘Wickwar Ridge and Vale.’ The western slope of the Wickwar Ridge is defined as a “*Visually Important Hillside*” in Core Policy CS2: Green Infrastructure.<sup>17</sup>
37. CS2’s description of the Wickwar Ridge demonstrates that although the Appeal Site may not be situated within a “valued landscape”, this does not preclude it from being a landscape that has value. Although Mr Gardner considers the Appeal Site to be ordinary in landscape terms, he clarified that this did not mean that development on undesignated

---

<sup>15</sup> Landscape Statement of Common Ground, CD 7.8, Table EDP 1.1.

<sup>16</sup> Landscape Statement of Common Ground, CD 7.8, para 1.3.

<sup>17</sup> South Gloucestershire Core Strategy, CD 4.4.

landscapes cannot have a significant impact in landscape terms. He also agreed that it is possible to have an in-principle objection to the development of undesignated land.

38. Ms Jarvis explained to this inquiry how the inherent function of the site within this Character Area is to facilitate long-distance views over open countryside. To illustrate this point, Ms Jarvis directed the inquiry to the photograph taken at the junction of Frith Lane, looking out across the Appeal Site to the west.<sup>18</sup> She poignantly described this view out across open countryside towards the Severn Ridge as the “*last chance*” to experience open countryside views as travellers approach the village and the linear development along the west side of the Sodbury Road. Mr Gardner did not dispute this.
39. The historic, linear development morphology of Wickwar along the B4060 is apparent from the Settlement Evolution Plan at WG3 of Mr Gardner’s Proof of Evidence.<sup>19</sup> When brought to this document during cross examination, Ms Jarvis remarked that the development parcels depicted on this plan have thus far respected the shallow plot, intermittent development on the western side of the road. It further demonstrates that the development that has occurred since the late 1970s has been concentrated along the eastern side of the road.
40. Mr Gardner agreed that the Settlement Evolution Plan demonstrates that development has primarily occurred along the eastern side of the road, commenting that this is primarily due to the presence of the Conservation Area.
41. Mr Gardner conceded that the Appeal Scheme would inevitably change the intermittent, shallow plot western settlement pattern because the northern, central and southern parcels of the Appeal Site would extend further west beyond the current extent of the outbuildings at South Farm. This accords with the Council’s primary landscape case that the Appeal Scheme would be an outlier development that is completely out of character with the established settlement pattern of Wickwar.

---

<sup>18</sup> Landscape Addendum, CD 2.7, photo viewpoint EDP2.

<sup>19</sup> Appellant’s Landscape Proof of Evidence, CD 7.25, Proof Plan WG3.

42. The Council is firmly of the view that this inevitable change to the western settlement pattern would be an unacceptable and appreciable encroachment into open countryside that contributes to Wickwar's historic rural village setting. Moreover, it is the Council's case that the Appeal Scheme would be experienced by receptors as an incongruous, backland development that spills out to the west beyond the established settlement pattern.

***Relevance of the developments to the eastern side of the Sodbury Road***

43. By replicating the built enclosure of the eastern side of the Sodbury Road, the Appeal Scheme would result in a suburbanised southern approach into the village. This suburbanisation and erosion of the relationship and connectivity of the village to its landscape surrounding would be exacerbated by the proposal to remove two willow trees subject to a TPO and part of the distinctive stone boundary wall that contributes to this section of the Sodbury Road and the Conservation Area lying further north. The removal of these key landscape features to create the northern access to the Appeal Site would have a distinctly suburbanising effect.
44. Ms Jarvis disagreed with Mr White's proposition that the developments on the eastern side of the Sodbury Road effectively constitute a precedent for granting permission on the western side. This disagreement is founded in the Council's perception of the developments on the eastern side as being fundamentally different to what is proposed at the Appeal Site in terms of the provision of open space, green infrastructure and mitigation planting. Contrary to these recent developments to the east, Ms Jarvis remarked that the Appeal Scheme would not contain adequate levels of open space, green infrastructure and mitigation planning. Mr Gardiner's own written and oral evidence accepts the negative influence of the built form to the east of Sodbury Road which would cross over onto the western side if the appeal were allowed.
45. Mrs Jarvis also explained that in her opinion breaching the boundary of the Sodbury Road and extending development westwards would remove a crucial area of open green

fields that balances out and serves as an important relief from the built enclosure of the eastern side of the Sodbury Road.<sup>20</sup>

*Open space, green infrastructure and mitigation planting*

46. The Appellant is at pains to point out that the principle of development is all that is being proposed for approval at this stage. In this regard, the Appellant stresses that the plans included in the Design and Access Statement (“**the DAS**”)<sup>21</sup>, amended DAS<sup>22</sup>, updated Illustrative Framework Masterplan<sup>23</sup> and Landscape Strategy Plan are merely intended to be of assistance to the Inquiry.<sup>24</sup>
47. The Council disagrees with the Appellant’s attempt to downgrade the importance of these plans, particularly in the light of the fact that they cast significant doubt on the sufficiency of what the Appellant envisages in terms of open space, green infrastructure and mitigation planting.
48. Before considering the Appellant’s open space, green infrastructure and mitigation planting proposals, it is important to stress at the outset that the Council maintains its view that the loss of openness and rural character of the site that would arise from the Appeal Scheme cannot be mitigated given the scale of encroachment into open countryside that it would represent.<sup>25</sup>
49. Mrs Jarvis is particularly concerned about the dominance of the three proposed attenuation basins in the central and southern parts of the Appeal Site’s western open space corridor. These concerns feature strongly in Ms Jarvis’ written and oral evidence.<sup>26</sup> They were also raised by the Design Review Panel in June 2022 and by the Council’s Public Open Space Officer.<sup>27</sup> The fundamental concern is that the proposed attenuation basins would amount to sterile, engineered, green grass depressions whose

---

<sup>20</sup> The Council’s Landscape Proof of Evidence, CD 7.15, para 2.5.

<sup>21</sup> CD 1.4.

<sup>22</sup> CD 2.2.

<sup>23</sup> CD 6.2.

<sup>24</sup> Appellant’s Planning Proof of Evidence at CD 7.21, para 2.17.

<sup>25</sup> The Council’s Landscape Proof of Evidence, CD 7.15, para 3.5.

<sup>26</sup> The Council’s Landscape Proof of Evidence, CD 7.15, para 3.5.

<sup>27</sup> Response from the Public Open Space Officer, 24 March 2023, CD 3.9.

imposing size would restrict the amount of land available for open space and green infrastructure and demonstrate the unsuitability of the proposal at the outline stage.

50. In Evidence in Chief, Ms Jarvis directed the inquiry to the Updated Drainage Strategy Sheet 1<sup>28</sup> which provides a clear image of the imposing scale of the proposed attenuation basins. Ms Jarvis commented that their substantial footprint essentially sterilises this area from public use.
51. Ms Jarvis also referred to the Appellant's illustrative layout<sup>29</sup> as clearly illustrating how little room there would be on either side of the basins for planting to soften and integrate the proposed development into its surroundings. In this regard, Ms Jarvis unfavourably compared the Appellant's proposals at the Appeal Site to the transitional zones and appropriate landscape buffers that have been achieved at the developments on the eastern side of the Sodbury Road.
52. The lack of confidence in the Appellant's ability and indeed, intention, to provide sufficient open space as part of the Appeal Scheme was brought into stark focus during Mr Richards's oral evidence. Mr Richards was keen to point out that the Appellant's intended open space provision, as set out in the DAS,<sup>30</sup> would exceed the Council's requirements and exclude areas of attenuation.
53. This bold statement was explored with Mr Richards in cross examination. Specifically, it was put to him that the plans included in the DAS and other layout and parameter plans were merely illustrative and could not be secured at this inquiry. Mr Richards of course agreed with this as it reflects the position always advocated by the Appellant at this inquiry. Mr Richards further agreed that the only public space provisions that could be secured at this inquiry were contained in Schedule 4 of the updated s106 agreement.<sup>31</sup>
54. The Inspector sought to explore the Appellant's contention that it would exceed the Council's open space requirements by asking Mr Richards to add up the different areas of public open space mentioned in the s106. After completing the calculation, it became apparent that the amount of open space that the Appellant would be legally obliged to

---

<sup>28</sup> Updated Drainage Strategy Sheet 1, CD 2.6a.

<sup>29</sup> Illustrative Parameter Plans and Illustrative Layout, CD 6.12, page 4.

<sup>30</sup> Updated Design and Access Statement, CD 2.2.

<sup>31</sup> ID 20.

secure under the s106 amounted to no more than the minimum required by the Council's policy.

55. Therefore, Mr Richards' account of the Appellant's supposed commitment to exceed the Council's open space requirements is not enforceable. Mr Richards attempted to get around the fact that, contrary to what he had suggested, the section 106 would only secure the bare minimum of open space by emphasising that it is "*in Bloor's interest to use those areas effectively and there is a good expectation that they will deliver in excess of the minimum.*"

56. In the light of the Council's serious and unresolved concerns about the impact of the attenuation basins on the successful delivery of adequate open space, green infrastructure and planting, Mr Richards' "*good expectation*" that Bloor will deliver more than the minimum is we suggest cold comfort.

57. As things stand at this inquiry, there is significant doubt as to whether the difficulties posed by the attenuation basins will allow the Appellant to deliver adequate open space and mitigation planting at the Appeal Site. All that can be secured at this inquiry is a bare minimum requirement that will not address the serious difficulties posed by the scale of the proposed attenuation basins and the reasons informing the Council's in-principle landscape objection to the Appeal Scheme.

### ***Viewpoints and effect on visual amenity***

58. There are a number of viewpoints ("VPs") in the amended photomontages<sup>32</sup> that, in the Council's view, particularly support its case on the significant landscape harm that would accrue from the Appeal Scheme's encroachment into open countryside.

59. We have already referred to the impact upon VP 2 from the proposal and do not repeat that. We submit that this would have a serious impact in that it would close off to a large extent the current views enjoyed across the site towards the Severn Ridge by suburban development.

---

<sup>32</sup> Amended Photomontages, ID 16.

### **Views from the footpaths to the north/north west of the site**

60. The photomontages show the impact on views from the footpaths to the north and north west of the site. We suggest that this shows how the appeal proposal will encroach into open countryside.

### ***VP7***

61. The Location Plan at 3.0 of the amended photomontages shows that VP7 is located on the approach to South Farm along a Public Rights of Way (“**PROW**”). Frith Farm is located directly south of this location.
62. From this VP, it is possible to see an expanse of open fields bounded by hedgerows. Ms Jarvis described how the farm hedge that lies to the north of the development softens views towards existing housing on the eastern side of the Sodbury Road and that it is possible to see the Cotswold Scarp from this VP.
63. Year 1 at the winter baseline is depicted at 7.4 and, as described by Ms Jarvis, shows a hard edge of housing dominating the landscape. When Mr Gardner was taken to VP7, he agreed that you can see the development on the other side of the Sodbury Road but the view in the foreground is one of open agricultural land.
64. He also agreed that the situation at VP7 at year 15 would be perceived by receptors as a notable extension into open countryside.

### ***SVPI***

65. Moving along that footpath to SVP1, Mr Gardner again agreed that the baseline view of SVP1 is a view over open agricultural land, with a clear sense of being in the countryside, despite the presence of the adjacent settlement. He further agreed that the Appeal Site would form part of the middle ground views.
66. Commenting on the situation that would accrue at year 15, depicted at 11.3, Mr Gardner did not dispute that the Appeal Scheme would be a notable extension into open countryside.

### **VP10**

67. The Location Plan at 3.0 of the Amended Photomontages situates VP10 further north. Mr Gardner agreed that the Appeal Site forms the middle ground of that view.

### **VP15**

68. Mr Gardner arrived at similar conclusions in respect of VP15. He noted that the baseline position of VP15, which is shown at 10.1 of the Amended Photomontages, displays a view out over open countryside with the appeal site in the middle ground.

### **SVP3**

69. Commenting on the year 15 scenario at VP3, which can be seen at 13.3 of the Amended Photomontages, Mr Gardner agreed that the effect of the Appeal Scheme would be to expand the existing settlement edge further across into the views and that this would have an adverse landscape effect. Indeed, this accords with the view he expressed in his Proof of Evidence as to the negative effect of the adjacent developments to the east.<sup>33</sup> Elaborating on this statement during cross examination, Mr Gardner remarked that everyone agrees that this loss of openness is negative.
70. In his Proof of Evidence, Mr Gardner argued that the “*Site does not form a prominent part of the appreciation of the wider landscape for any receptors, as detailed above. The photoviewpoints provided as part of the original application and the appeal confirm that there are geographically limited views of the Site from adjacent areas, which helps contain landscape effects.*”<sup>34</sup>
71. This comment does not sit easily with Mr Gardner’s agreement during cross examination on the impact of the above viewpoints on receptors’ appreciation of being in open countryside and his acceptance of the negative loss of openness that would arise from the Appeal Scheme.

---

<sup>33</sup> Appellant’s Landscape Proof of Evidence at CD 7.25, page 35.

<sup>34</sup> Appellant’s Landscape Proof of Evidence at CD 7.25, para 7.13.

### ***Views from the west of the site: VP 5***

72. The view towards the Appeal Site from VP 5 consists of an expanse of open agricultural and equestrian land in the main part of the view with some built form in the distance. There would be an appreciable encroachment of build development into this view which Mrs Jarvis considered could not be acceptably mitigated by planting.
73. In cross examination, Mr Gardner agreed that the year 15 winter view of VP5 shows a significant amount of development coming closer to the receptor in that view. He also concurred that this would have a negative landscape effect.
74. We consider that the photomontage from VP 5 shows the encroachment into open countryside that would occur even at year 15 along this footpath.

### ***Conclusions on landscape***

75. The landscape impact of the Appeal Scheme as demonstrated by the photomontages and photographs from the viewpoints cannot be considered on an individual basis. This is for the simple reason that people experience landscape as an integrated whole, not a series of isolated “snapshots”. As agreed by Mr Gardner, all of the landscape impacts from the Appeal Scheme must be considered cumulatively.
76. The evidence of both landscape experts clearly demonstrates the level of encroachment into open, undeveloped countryside that would arise from the Appeal Scheme. Furthermore, having closely considered the Settlement Evolution Plan, the vast westwards expansion of the Appeal Scheme beyond the historic linear settlement pattern of Wickwar would be and be perceived as an outlier, backland development spilling out across the landscape.
77. In view of the above, the Council maintains that its application of significant weight to landscape harm is clearly made out.

***Heritage harm to the significance of the Grade II listed South Farm and Grade II\* listed Frith Farm***

78. As required by section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* and paragraph 199 of the NPPF, any harm to a listed building or its setting must attract great weight in the overall planning balance.
79. The parties agree that there will be less than substantial harm to the Grade II listed building South Farm at the lower end of the spectrum.<sup>35</sup> There is therefore an accepted need to give great weight to the heritage harms of the Appeal Scheme in the planning balance.
80. The agreed position on South Farm means that the heritage dispute between the parties is confined to whether the Appeal Scheme would harm the setting of the Grade II\* listed Frith Farm. The Council's case is that there would be less than substantial harm to the significance of Frith Farm due to a change in its setting. The Appellant, on the other hand, argues no harm.
81. Before moving on to the nub of the debate on Frith Farm, the Council wishes to draw attention to an observation volunteered by Mr Skinner on VP7 of the Amended Photomontages' illustration of the impact of the Appeal Scheme on the setting of South Farm.
82. The extent to which VP7 illustrates the extent of the encroachment of the Appeal Scheme into open countryside was already discussed in the landscape section of this closing statement. As a matter agreed by Mr Gardner, the photomontage of VP7 at year 15 depicts the extent to which the Appeal Scheme would be perceived by receptors as a "*notable extension*" into open countryside.
83. Mr Skinner's evidence is certainly correct that this "*notable extension*" into open countryside would impact on the setting of South Farm. The evidence of the Appellant's landscape and heritage witnesses and VP7's stark depiction of the harm to the setting of South Farm bring the adverse heritage impacts of the Appeal Proposal into sharp focus.

---

<sup>35</sup> Heritage Statement of Common Ground, CD 7.9, para 1.3.

### ***Frith Farm***

84. Turning now to Frith Farm, the listing citation for Frith Farm states that one of the reasons that Frith Farm was designated as a Grade II\* listed building is its status as “*a very good ... example of a high class gabled vernacular gentry house.*”<sup>36</sup> Mr Nicholson’s evidence notes that at the time Frith Farm was constructed, the gentry residing at the house were actively farming their lands, which was a regular feature of such “high class” country houses.<sup>37</sup>
85. The views towards the Appeal Site from the first floor of Frith Farm reinforce the impression of this historic building’s isolated, prominent location within its historic agricultural setting. As explained by Mr Nicholson, the impression of ever-creeping development into these views would detract from the significance of the historic farmhouse.
86. It is apparent that Frith Farm’s centuries long history as a working farmhouse is a key component of its heritage significance. This point is further emphasised by the fact that Frith Farm remains in use as a working farm to the present day. Indeed, the Appellant’s own evidence recognises that the wider agricultural landscape setting of Frith Farm “*evidently*” reflects the house’s historic setting as a country house.<sup>38</sup>
87. The Appellant attempted to argue that work undertaken on the listed building and its residential curtilage in line with three previous consented planning applications and associated listed building consents had somehow diminished the historical character of the listed building. It is not quite clear what the Appellant hoped to achieve by referencing a series of 2013 consents that had no impact on the appreciation of Frith Farm in its wider agricultural and pastoral setting. It is worth acknowledging that the agreed heritage note highlights that there were no objections to the extension of Frith Farm from Historic England and the extensions, whilst modern, still form part of the Grade II\* listed building.<sup>39</sup>

---

<sup>36</sup> Appellant’s Heritage Proof of Evidence, CD 7.27, para 4.84.

<sup>37</sup> The Council’s Heritage Proof of Evidence, CD 7.17, para 4.24.

<sup>38</sup> Heritage Baseline Assessment, CD 1.12, para 5.30.

<sup>39</sup> Agreed Heritage Note, ID 17, paras 2.4-2.5.

88. A particularly illustrative example of the impact of Frith Farm’s wider agricultural setting on its significance as a heritage asset can be seen in images EDP12 and EDP13 of the Heritage Baseline Assessment. Although it is now agreed that these photos were not taken from the Appeal Site<sup>40</sup>, Mr Skinner agreed with the proposition that these photos give the viewer a clear appreciation of the house within its wider agricultural setting.
89. Although Mr Skinner did not address the significance of in-tandem views of the Appeal Site and Frith Farm in his written evidence, he agreed in cross examination that it is relevant to consider these views to understand the impact of the Appeal Scheme on the setting of Frith Farm.
90. Mr Skinner was taken to VP7 of the Amended Photomontages as an example of in-tandem views between the Appeal Site and Frith Farm. He agreed that the view out from this part of the PROW across a vast expanse of open fields bounded by hedgerows with Frith to the right, was exactly the kind of view he was referring to at para 4.115 of his proof where he states, “*the wider landscape beyond the paddocks in all directions comprises agricultural fields bounded by hedgerows. There is no clear functional association between this farmland and the farmhouse even though the fields reflect the house’s historic setting as a country residence.*”<sup>41</sup>
91. Based on the view depicted at VP7, Mr Skinner agreed with the proposition that the development will clearly be taking place within the wider setting of Frith Farm.

### ***Conclusions***

92. Taking a step back, Mr Skinner’s agreements on VP7 demonstrate that his evidence of no harm to Frith Farm was informed by an overly narrow approach to the kinds of views that should be considered when assessing the impact of the Appeal Scheme on the setting of Frith Farm. Mr Skinner failed to consider the impact of in-tandem views, which, as demonstrated by VP7, clearly show the harmful impact the Appeal Scheme would have on the setting of Frith Farm.

---

<sup>40</sup> Agreed Heritage Note, ID 17.

<sup>41</sup> Appellant’s Heritage Proof of Evidence, CD 7.27, para 4.115.

93. The Council's position is that the Appeal Scheme would result in heritage harms to both South Farm and Frith Farm.

94. The Council's written, visual and oral evidence has clearly demonstrated the extent to which the Appeal Scheme would detract from the historic agricultural setting of Frith Farm. The Council therefore invites the Inspector to conclude that this change in setting would lead to less than substantial harm at the lower end of the spectrum. As required by statute, this harm would attract great weight in the overall planning balance.

***Ongoing recreational pressure on the SSSI;***

95. The concerns over the impact from residents who would live at the proposed development through increased recreational pressure on the Lower Woods SSSI has evolved during the course of the Inquiry. The Appellant has now included a contribution of £100K towards the mitigation and management of the Lower Woods Reserve within the S106 Agreement (ID20).

96. As set out in the Gloucestershire Wildlife Trust (GWT) Letter (ID10) this contribution will aid in mitigating against the immediate/short-term impact of additional visitors to the woods that will result from a development in this location.

97. The GWT does also seek £2,500 per annum in perpetuity towards ongoing maintenance of the SSSI that would result from recreational pressure from the residents at the proposed development.

98. Ms Fitzgerald explained she did not consider an in perpetuity payment would be CIL compliant, but that there was an ongoing impact from long term recreational pressure that would not be mitigated by the payment to cover immediate short term impacts. She further explained that where developments were coming forward as part of a planned system, or as a result of the Beechwoods Moratoriums seen in the Cotswolds and Chilterns, all developments resulting in an increase in housing delivery in the area are contributing to both SANG and SAC, to enable a 'pot' of funds to be generated towards both mitigation and long term management.

99. As this is a speculative application, with a s78 appeal, there is no scope for this long-term management to be mitigated and accordingly we submit that Ms Fitzgerald is correct in continuing to recognise there is a long term residual adverse impact on the SSSI and to afford that impact limited weight.

***Planning policy and Conflict with the Spatial Strategy.***

100. The Development Plan policies considered most important and out of date are set out within the Planning SoCG (CD7.11) these were revisited by Ms Fitzgerald following the exchange of evidence in her rebuttal evidence (CD7.31 para 5.1-5.16), which has gone unchallenged.
101. Paragraph 38(5) of the Planning and Compensation Act 2004 states that, where there is a conflict between policies within the Development Plan, the conflict must be resolved in favour of the policy contained within the last document to become part of the Development Plan, and in any event the Development Plan should be read as a whole.
102. In respect of the heritage policies, Policy CS9 is considered to be out of date by the Appellant as they consider it to be a 'nil harm' policy that makes no provision for the public benefit test required by NPPF paragraph 202. It is acknowledged by the Council that CS9 lacks the public benefit test set out in paragraph 202 of the NPPF, but that the remainder of the policy does accord with the requirements of the NPPF.
103. Policy PSP17 forms part of the Development Plan and contains the necessary public benefit test that is absent from Policy CS9. Given that PSP17 is contained within the last document to form part of the Development Plan, it takes precedence over Policy CS9, read together as they should be the policies contained in the Development Plan on heritage should be considered up to date.
104. As agreed within the Planning SoCG1 Policy PSP17 does contain a single requirement that is not in accordance with the NPPF, as the second bullet requires there to be no other means of delivering similar public benefits through development of an alternative site. This was identified by the Inspector in the Thornbury case (CD5.1 para 46) and deemed to be out-of-date, but in the Old Sodbury case (CD5.2) Policy PSP17 was not found to be out-of-date.

105. Policy PSP17 is comprised of many requirements that are standalone tests and the second bullet point is no different. Whilst this element of the policy is not compliant with the NPPF the remainder of the policy does accord with the NPPF and, given this single test can be readily severed from the overall Policy assessment, we suggest that Ms Fitzgerald is correct to consider that it does not render the entire policy as out-of-date just that single test. The removal of the flawed requirement does not undermine the principles or the function of the remaining policy.
106. Policy CS9 has not been found to be out-of-date but the Appellant considers this to be a 'nil harm' policy and that the reference to 'conserve and enhance' goes beyond the requirements of paragraph 174 of the NPPF which seeks to 'protect and enhance'. However CS9 needs to be read in conjunction with Policy PSP2, which the Appellant (CD7.21 para 7.33) agrees, is consistent with the NPPF as it allows for harm to be weighed with benefits and minimisation of harm. When these two policies are read together as they must be and having regard to section 38(5) which gives precedent to the later policy we submit that they are consistent with the NPPF and therefore we suggest not out of date.
107. Whether the proposals are compliant with the landscape policies depends upon which of the respective landscape experts' views are preferred. We suggest that for the reasons set out above Mrs Jarvis' evidence should be preferred over that of Mr Gardner and for that reason the proposals are contrary to CS9 and PSP2.
108. It is agreed that the proposals will cause harm to a designated heritage asset namely South Farm and to that extent are contrary to policy CS9 and PSP 17 and that this harm should attract great weight in the balancing exercise.
109. It is agreed between the parties that the proposal is contrary to the spatial strategy of the Core Strategy and this harm attracts limited weight.
110. We now turn to address the benefits of the scheme. We consider that there are only two main areas of benefits firstly the delivery of housing in all its forms and other social, economic and environmental benefits.

## *Delivery of Housing in all its forms*

### *Five-year Housing Land Supply*

111. There is a dispute over whether the Council has a five year supply. The Council claims 5.35 years supply (a surplus of 503 homes), whereas the Appellant claims there are 4.44 years supply (a shortfall of 810 homes). The Appellant suggests that in the circumstances of a lack of a five year supply substantial weight, the highest category of weight, should be applied to the delivery of market housing whereas the Council attributes significant weight to such provision. This is not agreed and in our submission should be rejected.

112. The Council submits that irrespective of whether it has a five year supply or not given the difference in the two housing land supply calculations, even if the Appellant is correct, no more than significant weight should be applied to the delivery of housing. This approach is consistent with the West of Park Farm decision<sup>42</sup> where the Inspector, having found a shortfall of .23 years in the Council's five year supply, on an earlier five year supply period, only attributed significant weight to the delivery of housing using the Council's weighting categorisation. There is need for decision makers to be consistent as between themselves and the Appellant's claimed shortfall is of a similar nature and should therefore only attract the same level of weight. On that basis whether the Appellant's are right or wrong on the five year supply this should not affect the weight attached to housing provision.

113. However as whether it has a five year supply is important to the Council it will set out its case as to why it has one.

114. Starting with matters of agreement, paragraph 74 of the NPPF requires local planning authorities whose strategic policies are more than five years old to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' of housing against their local housing need. Footnote 39 clarifies that this calculation should be undertaken using the standard method set out in national planning guidance. As the Council's strategic housing policies are

---

<sup>42</sup> CD 5.1 page 52 para 155/156

more than five years old it is agreed that the standard method applies in this appeal.<sup>43</sup>

115. It is also agreed that the latest housing land supply position from the Council is the 2022 Authority's Monitoring Report ("AMR") published in March 2023.<sup>44</sup> This document is the basis of the Council's calculations and resultant position at this inquiry that it has a deliverable supply of 5.32 years.

116. The dispute between the parties is confined to 12 sites listed at Appendix 1 of the Five-Year Housing Land Supply SoCG.<sup>45</sup> The Council maintains that all sites listed in Appendix 1 meet the national policy test on deliverability. The Appellant argues that eight of the sites should be excluded and the calculation of deliverable sites should be revised downwards in respect of the other four sites.

117. To determine whether the Council is meeting its obligations on five-year housing land supply, it is necessary to consider whether a site is "*deliverable*" within the meaning of the NPPF.

118. Glossary 2 of the NPPF<sup>46</sup> defines deliverable:

*To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is*

---

<sup>43</sup> CD 7.10, para 2.3.

<sup>44</sup> CD 4.11.

<sup>45</sup> CD 7.10.

<sup>46</sup> CD 4.7.

*identified on a brownfield register; it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*

119. The Planning Practice Guidance (“PPG”) on Housing Supply and Delivery clarifies that evidence to demonstrate deliverability may include current planning status (e.g., progress towards approving reserved matters), firm progress being made towards the submission of an application, firm progress with site assessment work or clear relevant information about site viability, ownership constraints or infrastructure provision.
120. In *St Modwen Developments Ltd v (1) Secretary of State for Communities and Local Government (20 East Riding of Yorkshire Council and Save our Ferriby Action Group* [2016] EWHC 968 (Admin), the Court of Appeal clarified that producing clear evidence of deliverability does not require certainty that housing sites will be developed within that period. The Court further held that planning permission is not a necessary prerequisite to a site being “deliverable” in terms of housing supply. It is enough to produce clear evidence that a site is capable of being delivered not that it will be delivered.
121. Applying the NPPF and the PPG, the following key points are worth emphasising:
122. Whether a site is available now, offers a suitable location for development now and is achievable with a realistic prospect of delivery within five years is a matter of judgment for the Inspector. The clarity of the evidence on deliverability will influence how this judgment is exercised;
123. Whether the burden of providing clear evidence on deliverability falls on the Appellant or the Council depends on whether the site is a “Limb A” or a “Limb B” site;
124. In the case of “Limb A” sites, the Appellant bears the burden of providing clear evidence that homes will not be delivered within five years;
125. For “Limb B” sites, the Council must provide clear evidence that housing completions will begin on site within five years;

126. It will be readily apparent to anyone reading the above NPPF definition of a “*deliverable site*” and the PPG on Housing Supply and Delivery that they are broadly worded and leave considerable scope for judgement. How that judgement will be exercised will necessarily turn on the factual context of each specific site.

127. The Appellant, on the other hand, purports to elevate isolated findings from seven appeal decisions to a list of factors to be considered when determining whether a site has the necessary clear evidence to be considered deliverable.<sup>47</sup> There are several problems with this approach.

128. First, it is wrong to divorce findings in appeal decisions from their specific factual contexts and commend them as factors that should be considered as a matter of course when determining the question of deliverability. None of the appeal decisions cited by the Appellant relate to South Gloucestershire and several raise entirely unrelated issues to the disputed sites that are the subject of this appeal.

129. To give just one example, in London Road, Woolmer Green (Ref. APP/C1950/W/18/3207509)<sup>48</sup>, the local planning authority included allocated sites within the emerging local plan, particularly Green Belt releases, to justify its five-year housing land supply. The Green Belt releases allocated in the emerging local plan amounted to some 1,671 of the units relied upon by the Council. Given the importance the NPPF attaches to the ongoing protection of the Green Belt, the Inspector did not consider it appropriate to include Green Belt sites in the emerging local plan in his consideration of five-year housing land supply. Moreover, the emerging local plan was not at an advanced stage such that none of the allocations contained within it had a realistic prospect of delivering housing within five years. None of these issues arise in the present appeal.

130. Therefore, given that Mr Richards’ “principles” at para 3.18 of his Proof of Evidence on five-year housing land supply do not follow the clear guidance in the NPPF and PPG and are derived from appeal decisions bearing no resemblance to

---

<sup>47</sup> CD 7.23, para 3.18.

<sup>48</sup> CD 5.21.

the factual context of this appeal, the Council does not accept that these are the applicable rules for deciding whether evidence is clear or not.

131. Second, the Appellant's suggestion in the "principles" contained in his Proof of Evidence that the "*onus is on the Council to provide the necessary clear evidence that first homes will be delivered in the five-year period*" ignores the different burden of proof that applies to "*Limb A*" and "*Limb B*" sites. The Appellant is wrong to commend to the Inspector a principle that ignores these crucial differences.

132. Third, the Appellant makes the broad assertion in his Proof of Evidence that information, emails or completed proformas from a developer, agent or landowner or the holding of a meeting to discuss progress do not constitute sufficiently clear evidence. Devoid of any factual context, this statement is overly simplistic.

133. During the Round Table Session, Mr Richards introduced a new point on the question of base date. Mr Richards essentially sought to disregard sites that did not have permission at the AMR base date of April 2022. In his Proof of Evidence at para 6.4 Mr Richards states that sites should have met the definition of deliverable at the base date<sup>49</sup>, however, the Round Table Session was the first time he explained the consequences he intended the Inspector to draw from this position. Indeed, the Inspector noted that the commentary included in the disputed sites table of the SoCG does not mention anything about the importance of the base date to which Mr Richards responded, "*that is a fair reflection, sir.*"

134. The Inspector then queried whether Mr Richards was inviting him to undertake a hypothetical exercise by backdating the sites to the situation that existed at the base date of April 2022 and ignore everything that happened since. When pushed to clarify his position, Mr Richards said that sites should have met the definition of deliverable at the base date, but he was not saying that the Inspector cannot take account of things that have occurred since then.

---

<sup>49</sup> CD 7.23.

135. In the light of Mr Richards' previously uncanvassed approach to the calculation of five-year housing land supply, you Sir sought agreement from the parties on what you considered to be the correct approach to determine a five-year housing land supply. You Sir, correctly informed the parties that what you thought you required to do was examine the list of disputed sites and determine whether there is clear evidence of delivery at the present time. Neither the Council nor the Appellant disagreed with what you thought the nature of the exercise was when invited to comment on whether you were conducting the correct exercise for determining five-year housing land supply. We submit that despite a temporary foray into the base date the exercise that you need to undertake is agreed and as set out by yourself at the RTS.

136. The correct approach is that which you sought and obtained confirmation on namely the sites based on the evidence that is available *now*, not April 2022.

137. The Council sets out why the 12 disputed sites will make a contribution to the supply below.

***Site 1: South of Douglas Road, Kingswood (ref. 0035) (70 dwellings in dispute)***

138. This is a "*Limb A*" site. Therefore, applying the NPPF definition of deliverability, the Appellant bears the burden of providing clear evidence that homes will not be delivered within five years.

139. Ms Fitzgerald informed the inquiry that there has been no change in the factual position on-site since the completion of the SoCG on five-year housing land supply. The Council has received confirmation that a land deal is nearing completion for the final phase of the overall scheme and that completions are due to commence in 2024/25 with overall completion by 2026/27.

140. As this is the final phase of a wider site, full permissions and infrastructure are in place. In that regard, Ms Fitzgerald pointed out that it would not be in the interest of anyone, let alone the landowner, not to continue when all is place and costs have been incurred.

141. The Appellant's response to this clear evidence of progress was that the inquiry does not have any evidence of an intention to vary the planning permission and although there is interest in acquiring the site, the identity is unknown. The Appellant then stated that developments had ceased since 2020 and wrongly, for reasons stated above, invited the Inspector to consider the site in the light of the base date.

142. The SoCG and Ms Fitzgerald's evidence demonstrate that firm progress is being made on delivery. The Appellant has not come close to providing clear evidence that homes will not be delivered in the next five years. Applying the NPPF and PPG on housing delivery, this site should be included when calculating the Council's five-year housing land supply.

***Site 2: Land at North Yate (ref. 0133) (638 dwellings in dispute)***

143. This is a "Limb A" site requiring the Appellant to provide clear evidence that homes will not be delivered within the five-year period.

144. All permissions and reserved matters consent are in place which, according to the PPG, are factors demonstrating deliverability. Furthermore, infrastructure has been delivered. Ms Fitzgerald informed the inquiry that this is a highly active site that is delivering housing year on year with no sign of abating. This is clearly evidenced by the table of completions at para 2.19 of the Council's Proof of Evidence on five-year housing land supply.<sup>50</sup> For example, following a marginal drop during the COVID-19 pandemic, in 2022/23, the Council exceeded the AMR's forecast of completions by 66 dwellings.

145. In the recent Barwood Land appeal, Land to the West of Park Farm, Thornbury (Ref. 3288019), the Inspector found that North Yate had a delivery rate of 191 dwellings per annum.<sup>51</sup>

---

<sup>50</sup> CD 7.14.

<sup>51</sup> CD 5.1, para 82.

146. The Appellant stated that it did not dispute that this site is deliverable but questioned whether the Council's predicted delivery rates were reasonable. Specifically, the Appellant challenged the Council's evidence on deliverability on the basis that the current economic climate and trading position render its position unrealistic. As pointed out by Ms Fitzgerald, the Appellant's reliance on national reports on market conditions all pre-date the site delivering its best year yet. National reports that take averages across the whole country and which do not reflect the local situation cannot sensibly count as clear evidence that homes will not be delivered at North Yate within the five-year period.

147. Therefore, the Council's position that it can comfortably demonstrate that 1,438 dwellings will be delivered at North Yate over the five-year period should be preferred.

***Site 3: Land at Cribbs Causeway (Berwick Green) (ref. 0134aa)***

148. Again, this is a "Limb A" site, requiring the Appellant to provide clear evidence that homes will not be delivered within the five-year period.

149. This site forms part of a Reserved Matter for 256 dwellings and development is advancing on site. Applying Lichfield's Start to Finish Report<sup>52</sup>, a site of between 100-499 will deliver circa 55 dwellings per annum. The Council has received confirmation from Bellway as to delivery on the site and there is nothing to suggest that the Council's figures on deliverability on this site are unrealistic.

150. Mr Richard's assertion during the Round Table Session that the Council's assumptions on deliverability are based solely on information received from the developer is plainly wrong. He has failed to discharge the burden of providing clear evidence that the Council will not deliver housing on this site during the five-year period.

***Site 4: Parcels 14-19 Land at Cribbs Causeway (Berwick Green / Haw Wood) (ref.0134ab) (84 dwellings in dispute)***

---

<sup>52</sup> CD 7.24, Appendix 5.

151. This is a “*Limb A*” site with outline planning permission and reserved matters secured.

152. The Council has obtained written confirmation from the developer, Taylor Wimpey, that construction of 240 dwellings by 2026/27 and providing a table of its estimated delivery trajectory.<sup>53</sup> This position largely accords with the Inspector’s conclusions in the Thornbury case, where nine dwellings were removed. In this appeal, the Council concedes four dwellings.

153. The Appellant again referred to the inadequacy of producing developers’ emails to demonstrate clear evidence and was reminded by the Inspector that as this is a “*Limb A*” site, the burden falls on the Appellant to produce clear evidence that housing will not be delivered.

154. In the recent appeal decision, Land to the west of Park Farm, Thornbury (Ref: APP/P0119/W/21/3288019)<sup>54</sup>, Inspector Downes recently considered this site and was satisfied that approximately 78 units could be delivered per annum, albeit this referred to a different five-year period. Taylor Wimpey’s evidence confirms that this site can deliver approximately 240 units in the five-year period.

155. Therefore, in relation to the deliver of this site is a recent Inspector’s decision confirming the level of deliverability claimed corroborated by an email from Taylor Wimpey providing detailed information on its estimated delivery trajectory. The Appellant’s complaint of the inadequacy of developer emails comes nowhere near discharging its evidential burden of proof for this “*Limb A*” site.

***Site 5: Land at Wyck Beck Road and Fishpool Hill (ref. 0134ba) (24 dwellings in dispute)***

156. This is a “*Limb A*” site with outline planning permission and various reserved matters secured.

---

<sup>53</sup> CD 7.14, Appendix 4.

<sup>54</sup> CD 5.1, paras 73-74

157. The Council received confirmation from the developer that its delivery trajectory was correct. The developer agreed, except for the delivery of 35, not 40, dwellings in 2023/24.<sup>55</sup> On this basis, the Council conceded five dwellings.

158. The site is under construction and a report from Taylor Wimpey is included at Appendix 5 of the Council's Proof of Evidence on five-year housing land supply<sup>56</sup>. From 2024/25, Taylor Wimpey estimates that 48 dwellings will be delivered per annum.

159. The Appellant did not provide any evidence that housing will not be delivered at this site over the five-year period. It merely believes that the Council's estimations are unrealistic, that is not clear evidence.

***Site 6: Land North of Iron Acton Way & East of Dyers Lane (ref.0257) (100 dwellings in dispute)***

160. This is a "Limb A" site with full planning permission.

161. The Appellant challenged this site's inclusion in the Council's calculation of five-year housing land supply based on its understanding that there was an ongoing Lands Tribunal dispute between the developer and landowner. This understanding proved to be incorrect.

162. The Developer has since confirmed that this site is not at Lands Tribunal.<sup>57</sup> However, delays in finalising the land deal have postponed development by one year. On this basis, the Council concedes 40 dwellings.

163. During the Round Table Session, Ms Fitzgerald informed the inquiry that the landowner and developer are working to resolve any outstanding issues and importantly, the discharge of conditions application has not been withdrawn. Mr Richards accepted that the site is not at Lands Tribunal, which was the basis of its objection in the Statement of Common Ground.

---

<sup>55</sup> CD 7.14, Appendix 5.

<sup>56</sup> *Ibid.*

<sup>57</sup> CD 7.14, Appendix 6.

164. However, Mr Richards then went on to argue that the site should not be included in the Council's supply until the issues are resolved. In response to the Inspector's query as to whether this constituted clear evidence that housing will not be delivered, Mr Richards responded, "*we don't know when it will be resolved. Who is to say that this time next year, it won't be pushed back?*"

165. It will be apparent from the above quote that the Appellant's purported evidence on lack of deliverability merely amounts to speculation and does not discharge its burden of proof on this "*Limb A*" site.

***Site 7: Hillside Court Bowling Hill Chipping Sodbury (ref. 0262) (27 dwellings in dispute)***

166. This is a "*Limb A*" site with prior approval.

167. Prior approval has been granted for change of use to 27 flats. As set out in the Council's comments in the Statement of Common Ground, an alternative proposal was submitted but is to be withdrawn. The Appellant's contention that there is evidence suggesting an alternative will be pursued is not enough to clearly evidence that housing will not be delivered on this site within the five-year period.

***Site 8: Land at Chief Trading Post, Barry Road, Oldland Common (ref. 0266) (50 dwellings in dispute)***

168. This is a "*Limb B*" site, requiring the Council to provide clear evidence that housing completions will begin on site within five years. It has hybrid planning permission and outline permission for 50 units.

169. During the Round Table Session, the Council confirmed that since the exchange of rebuttals, the 50 dwellings were confirmed as 100% affordable. Furthermore, Ms Cox informed the inquiry that reserved matters revisions were made on 10 October 2023 to deal with "design tweaks". Subsequent discussions with the registered provider confirmed that they still intend to complete 100% affordable homes in the five-year period. Confirmation of a Homes England Grant and forecasted

completion of site ground works and enabling highway work by November 2023 are further clear evidence that housing completions will begin on site within five years. Ms Cox also stated that the Council intends to move towards planning approval by the end of this year or early 2024, with all homes delivered between 2024 and 2026.

170. Ms Fitzgerald referred to the guidance for providing clear evidence in relation to “*Limb B*” sites. The Council has discharged its burden of proof on deliverability because progress is being made on a reserved matters consent and the involvement of an affordable housing provider and Homes England clearly evidence intent to deliver and the means to do so. Ms Fitzgerald also remarked that following reserved matters, the infrastructure will be in place as this is progressing under the hybrid consent.

171. In response, the Appellant argued that the Inspector should have regard to the fact that at the base state, there was no planning permission. For reasons already discussed, the Appellant is entirely incorrect in its position on the base date. Mr Richards also raised concerns about deliverability on the basis that amended plans are being consulted on and a crime prevention officer had raised concerns about the scheme. In response, Ms Cox reminded the inquiry that none of the statutory bodies have lodged any objection to the scheme and that ultimately the planning officer will need to make a planning judgment in light of the objection raised if they are not resolved. There is ample evidence that there is a realistic prospect that this site will deliver housing within five years and that 50 housing completions will take place within that time period.

172. It follows that, following the NPPF and PPG on “*Limb B*” sites, the Council has produced clear evidence on the deliverability of this site.

***Site 9: Land West of Park Farm, Thornbury (ref. 2070) (91 dwellings in dispute)***

173. This is a “*Limb B*” site with outline planning permission.

174.As mentioned in the Council’s commentary in the SoCG, sale of the site has progressed at speed. A reserved matters application is anticipated imminently. Ms Fitzgerald explained during the Round Table Session, that a phasing strategy has been submitted but because of confidentiality, whilst we know that there is a developer on board we do not yet know who that developer is.

175.In response, the Appellant stated that this is a speculative application and made reference to the base date as this is a permission granted after that time. There is a deep irony that a site permitted due to an absence of a five year supply in order to help to make good that deficit within the five year period cannot then be relied upon by the Council in the next five year period for that purpose in another appeal. The West of Park Farm appeal is cogent evidence of the ability of this site to deliver within the five year period it was the rationale for its permission.

176.It is also relevant that in that appeal decision, Inspector Downes noted Barwood Development Securities Ltd’s “*good track record of securing deliverable schemes.*”<sup>58</sup>

177.The Council has discharged its burden of proof by clearly demonstrating firm progress in relation to this site. There is clear evidence that housing completions will begin on site within five years.

***Site 10: Land at Harry Stoke, Stoke Gifford – Crest (ref. 0021c) (75 dwellings in dispute)***

178.This is a “*Limb B*” site with outline planning permission.

179.As mentioned by the Council in the SoCG, several sets of amendments have been received in 2023, with progress underway to reach a decision this year. In the Land to the west of Park Farm, Thornbury appeal decision, Inspector Downes decided that the level of uncertainty surrounding the site meant that it should be removed from the supply.<sup>59</sup>

---

<sup>58</sup> CD 5.1, para 156.

<sup>59</sup> CD 5.1, paras 85-86.

180. However, circumstances have significantly changed since this site was considered by Inspector Downes. The applicant has sought to progress matters and a full suite of amendments to the reserved matters application have been submitted, some as recently as September 2023, is evidence of clear progress through negotiations between the developer and the Council. As stated by Ms Fitzgerald during the Round Table Session, there are a couple of outstanding consultees, but matters are moving swiftly towards a decision which is anticipated before the end of the year. Importantly, this is the last phase of a much wider development on this site.

181. The Appellant counterargued that consideration of this application has only recently restarted and pointed out that the history of this site has included numerous iterations of plans.

182. The Council maintains that the Appellant's objections are not enough to demonstrate that it has failed to discharge its burden of proof. The Inspector must consider the evidence as it stands today. In that regard, recent amendments, progress on consultations and the Council's stated intention to reach a decision this year are clear evidence that housing completions will begin on this site within the five-year period.

***Site 11: Land North of the Railway, East of Harry Stoke (ref. 0135b) (50 dwellings in dispute)***

183. This is a "Limb B" site with outline planning permission.

184. As mentioned by the Council in the SoCG, earthworks have been completed for this site and other infrastructure is already in place. The developer is currently progressing the initial 150 dwellings and there are more than 50 occupations. During the Round Table Session, Ms Fitzgerald pointed out that there have been recent amendments and consultation responses requiring further work, but these are not onerous and can be quickly addressed. For example, National Highways have asked for additional information on landscape and drainage, but this does not constitute any real objection to the scheme just minor detailing.

185. In response to a question from the Inspector, Ms Fitzgerald confirmed that all 50 dwellings relate to the reserved matters application.

186. The Appellant's concerns regarding outstanding issues on drainage, highways and landscape do not negate the clear evidence provided by the Council on deliverability.

***Site 12: Land at Hambrook Lane Stoke Gifford (ref. 0135e) (60 dwellings in dispute)***

187. This is a "*Limb B*" site.

188. During the Round Table Session, Ms Fitzgerald stated that although there is currently no consent in relation to this site, an application for full planning permission has been made and the Council is expecting a further set of revised plans imminently and the application is moving towards a decision. Appendix 8 of the Council Statement on five-year housing land supply<sup>60</sup> contains Taylor Wimpey's estimated timescales for the site. First completions are estimated to take place in January 2025, with an anticipated end date of November 2027.

189. Ms Fitzgerald further pointed out that the site is part of a wider allocated site with the Development Plan. The Appellant did not dispute the site's allocation but raised concerns that the Council could not provide clear evidence of deliverability.

190. The Council's position is that the recent firm progress on this site and the evidence contained in Appendix 8 do provide clear evidence to this inquiry that housing completions will begin on site within five years.

191. In light of the above it is clear that the Council can demonstrate a five year supply. Following the small concessions made by Ms Fitzgerald the Council submits that it has a 5.32 years supply as opposed to the 5.35 set out in the Council's AMR. The Council in suggesting that the delivery of market housing from this scheme attracts significant weight has been generous. For reasons already explained Mr Richards'

---

<sup>60</sup> CD 7.14.

suggestion that a Council with a five year supply (or on his case a marginal shortfall) attracts substantial weight is not sustainable and contrary to a recent appeal decision in South Gloucestershire.

### **Affordable Housing**

192. The delivery of affordable housing is of strategic importance to the Council, and this is reflected in the significant weight it gives to the Appeal Scheme's delivery of 35% affordable dwellings. This proposal complies with policy CS18 of the Core Strategy and as the Inspector correctly remarked at the opening of the inquiry, the main point of contention between the parties is whether affordable housing should attract significant or substantial weight.

193. The answer to the question of weight lies in whether the Council is meeting its annual affordable housing needs. If it is not, the provision of affordable housing could reasonably justify substantial weight. However, if it is meeting its needs, as it clearly is, it would be disproportionate to attach substantial weight to 35% affordable housing provision, which is the bare minimum required by policy.

194. The Council's position that it is meeting its affordable housing needs is grounded in the Local Housing Needs Assessment ("LHNA") 2021 which identifies a need to provide 411 affordable homes per year in South Gloucestershire between 2020/21-2034/35.<sup>61</sup> Mr Lee explained that the LHNA 2021 uses a tried and tested methodology for calculating affordable housing need that has been in widespread use since the publication of the original NPPF.

195. Mr Roberts<sup>62</sup> whilst arguing that the LHNA 2021 had not been subject to scrutiny, accepted the list of local plan examinations where the methodology underpinning the LHNA had been extensively tested and accepted as sound provided in Mr Lee's Proof of Evidence.<sup>63</sup> Although Mr Roberts was keen to emphasise that the methodology "*has been challenged*" which is undoubtedly true, what matters is

---

<sup>61</sup> CD 4.33.

<sup>62</sup> The Appellant's written evidence on affordable housing was prepared by Mr Stacey. Due to a medical emergency, he could not attend the inquiry so Mr Roberts adopted his evidence and gave oral evidence.

<sup>63</sup> CD 7.30, footnote 1 of page 5.

that everywhere the LHNA approach has formed the evidence basis for local plans, its methodology and figures have always been accepted by Inspectors. The approach is robust and fully complies with national policy and the PPG.

196. The LHNA 2021 is the most up-to-date document prepared and published by the Council on its affordable housing needs. Inspector Downes in Land to the west of Park Farm, also endorsed use of the LHNA 2021 as “*the most up-to-date information available*”<sup>64</sup> as the need figure against which the supply should be assessed. This is also the position that the Appellant has now arrived at. In cross examination, Mr Roberts accepted, as he had to, that the LHNA 2021 is the most up-to date information available on the Council’s affordable housing needs and that you Sir should be using the most up-to-date information in considering this appeal.

### ***The reliability of the LHNA 2021***

197. As explained by Mr Lee in his written and oral evidence, the Appellant’s concerns that the 411 figure in the LHNA 2021 is an under calculation are based on incorrect assumptions about the use of a 35% income threshold level and reliance on the private rental sector as a supply of affordable housing.

198. Based on Mr Lee’s explanation in his oral and written evidence that he had not used a 35% income threshold to calculate the need, Mr Roberts accepted his evidence was based on a misunderstanding and confirmed in cross examination that he was withdrawing this concern. Given that the point on 35% income threshold has now fallen away, we will focus on the Appellant’s concerns about the role of the private rental sector.

199. Para 5.83 of the LHNA 2021 makes it very clear that it does not assume that the private rental sector will house a proportion of those in affordable housing need. Mr Lee further explained to the inquiry that as housing benefit forms part of a person’s income, it puts them in a position whereby they can afford to rent in the private rental sector: they can afford market housing, and the PPG is therefore clear

---

<sup>64</sup> CD 5.1, para 157.

that they should not be counted as needing affordable housing.<sup>65</sup> If their housing benefit was withdrawn, they would not be able to afford market housing and only then would they be counted as in housing need. But that is an entirely hypothetical situation: housing benefit forms an important part of their income that needs to be taken into account in order to see if they fall within the definition of in need of affordable housing.

200. It became apparent during Mr Roberts' oral evidence that his concerns about the role of the private rental sector were actually grounded in a personal disagreement with how affordable housing need is assessed as a matter of national policy. This is clearly illustrated by his comment during cross examination that leaving housing benefit out of account creates a "*highly dissatisfactory situations*" and "*reaffirms my concerns as to how those households are housed and makes it very challenging for me to wholeheartedly endorse such an approach.*"

201. Although Mr Roberts might not feel comfortable in endorsing this approach, he accepts that this is what national policy requires when deciding who can or cannot afford to meet their housing needs in the market. He also accepted that this was the approach taken by the LHNA 2021 and endorsed at numerous local plan examinations.

### ***The housing register***

202. Mr Roberts sought to highlight that there were 4228 applicants on the Council's housing register. However, when he was asked to clarify whether the 4228 households on the Council's housing register all met the PPG definition of those in affordable housing need, Mr Roberts confirmed that not all of them would. He also confirmed that he did not know how many applicants were in a reasonable preference category, as he hadn't asked the Council for that information. He could

---

<sup>65</sup> PPG states that "*only those households who cannot afford to access suitable housing in the market*" should be included when assessing affordable housing need (ID 2a-020-20190220)

not assist the inquiry with the number of households that were actually in affordable housing need out of the 4228 on the register.

203. Mr Lee, on the other hand, relies on the LHNA 2021's calculation that 1886 of the 4228 households on the housing register meet the PPG definition of being in need of affordable housing resulting in a net need from 1100 households after allowing for transfers within the stock.<sup>66</sup> Mr Roberts agreed that the criteria applied in Figure 75 comply with the PPG and that any existing affordable housing tenants in need would not add to the net total, but remarked that he did not think that households on the housing registered were "*very interested in what the PPG says if they are paying too much rent or have insecurity of tenure.*" It is the figure of 1100 households that feeds into the annual need for affordable housing of 411 dwellings per year and this is the figure used by Mr Lee and Inspector Downes in a recent appeal decision.

204. Although people on the housing register might not be interested in the definition of those in need of affordable housing in the PPG, in terms of carrying out an analysis of what the need is for the purposes of an LHNA the definition contained in national planning policy guidance needs to be applied and this is what Mr Lee has done in an approach endorsed at many local plan examinations. It is perhaps surprising that a professional witness in a planning inquiry would suggest otherwise but it is revelatory of Mr Roberts' approach to affordable housing need at this inquiry.

205. In short, Mr Roberts' concerns about how the affordable housing need is calculated for the purposes of this inquiry are not grounded in any methodological flaw or miscalculation on the part of the Council. The objections aired by Mr Roberts merely amount to personal disagreements with the definition in national policy of those in affordable housing need.

---

<sup>66</sup> CD 7.30, Figure 75 at page 15.

206. Mr Roberts might wish that national policy were different but it is that definition that Mr Lee has used in his LHNA and that is the definition we suggest that any decision maker should use in considering what the level of need for affordable housing actually is. Moreover as Mr Lee made clear in his written evidence housing indicators have already been taken into account in the LHNA<sup>67</sup> and it is simply not appropriate to take them into account again outside that process.

207. It follows that the evidence before this inquiry clearly demonstrates a need for 411 affordable homes per annum in South Gloucestershire for the relevant period 2020 to 2035 and this is the figure that should be used against which to assess the supply.

### ***The Supply of Affordable Housing***

208. Mr Lee explained in his evidence that there is clear evidence that over the last ten years major sites have delivered affordable housing at a rate of 34%. When this applied to the projected supply from large sites in the Council's housing trajectory this gives rise to a figure from major sites through section 106 obligations of 2009 affordable units<sup>68</sup>. Over the last five years affordable housing through these obligations has delivered 75% of the supply with the remainder being delivered through other sources. The likely projection over the next five years is therefore 2691 affordable units – a supply of 538 units per annum. Mr Roberts agreed that if an allowance is made for those who will exercise the right to buy based on historic rates the supply figure would fall to 514 affordable housing units per annum.

209. To put this into perspective, Mr Lee remarked that this would be one of the highest rates of affordable housing delivery in the country and that many local authority areas would be unlikely to provide more than 100 affordable dwellings per year. Even Mr Roberts said that this was "*certainly a good performance*".

---

<sup>67</sup> Mr Lee Rebuttal CD7.30 paras 81-84 page 17

<sup>68</sup> Above page 19

210. The Council's case on annual affordable housing supply is entirely validated by an important concession made by Mr Roberts on the impact of five-year housing land supply on affordable housing provision. Mr Roberts accepted that, taking the need for 411 affordable homes per year identified in the LHNA 2021, the Appellant's own housing land supply calculation (which is not agreed for the reasons set out above), demonstrates a supply of 426 affordable homes per year, which still outstrips the need. In other words, whichever land supply figures are used, the Council is demonstrably meeting its affordable housing needs.

### ***The status of the 2009 SHMA***

211. It is perplexing that the Appellant commends to the Inspector an historic document that has subsequently been superseded by three additional assessments (the latest of which is the LHNA 2021) as the correct basis for determining the Council's affordable housing need. The 2009 SHMA's status as an historic document is further underscored by the fact that it predated both the NPPF and the PPG. It is entirely irrelevant for the purposes of this appeal and should be rejected as did Inspector Downes at the West of Park Farm inquiry. It should most certainly not be used as the basis to make any case of historic under delivery in the way the Appellants seek to do. Any suggestion that there is currently a shortfall of -6,882 affordable dwellings using this document is not based on up to date evidence and should be rejected. However this may give some insight into why the Appellant's, erroneously suggest that the delivery of affordable housing from this scheme should attract the highest category of weight.

212. In cross examination, Mr White put to Mr Lee that the 2009 SHMA was the document which informed Core Strategy policy CS18. Mr Lee agreed but reminded the inquiry that CS18(8) expressly states that affordable housing is to be assessed according to the 2009 SHMA or "*as updated by future housing market assessments.*" The LHNA 2021 is clearly a future housing market assessment for the purpose of CS18(8). When taken to this provision in cross examination, Mr Roberts explained that para 8 of Policy CS18 makes clear to the reader that the most up-to-date assessment should be used for the purposes of the policy.

213. Para 4.1 of the Council's Affordable Housing and Extra Care Housing Supplementary Planning Document ("SPD")<sup>69</sup> which was adopted in April 2021 also makes it clear that it is the LHNA that should be used for the purposes of identifying housing need. Para 4.1 states, "*Until the West of England LHNA, which encompasses Bath and North East Somerset, North Somerset, Bristol and South Gloucestershire is completed, the Strategic Housing Market Assessment (SHMA), is still relevant in identifying housing need as the evidence base supporting the delivery requirements of Affordable Housing policies CS18, CS19 and CS20.*"

214. LHNA 2021 was published five months after the SPD in September 2021. Therefore, as expressly provided for by the SPD and recently agreed by a senior planning Inspector, the LHNA 2021 is the relevant evidence base for affordable housing need under CS18. There is absolutely not justification or evidence before the inquiry that any weight should apply to the SHMA 2009 of that it has any role in assessing the current level of need.

### ***Weight in the planning balance***

215. Given this Council is meeting its affordable housing needs, the provision of 35% affordable housing should carry no more than significant weight in this appeal. This is a proportionate position that reflects the importance placed by the Council on the delivery of affordable housing, that it is meeting its affordable housing needs and the fact that the Appeal Scheme's proposal of 35% is the bare minimum required by policy.

216. Mr Lee stated in Evidence in Chief that he considers the Council's position of significant weight to be a generous one in the light of the Appeal Scheme's proposal to provide the minimum policy requirement. Mr Lee also felt significant weight was generous given the Council's position that it is comfortably meeting its affordable housing needs as defined in the LHNA 2021; a position he supports.

---

<sup>69</sup> CD 4.28.

217. To the extent that Mr Roberts relies on appeal decisions that gave substantial weight to the provision of affordable housing, it must be recalled that these decisions were taken in circumstances that bear no resemblance to the situation in South Gloucestershire.<sup>70</sup> The local circumstances of those planning authorities may have justified the allocation of substantial weight but that would not be a proportionate decision in the circumstances of this appeal for the reasons set out above.

218. Whilst it is true that in the appeal decision relating to Land to the west of Park Farm, Thornbury, South Gloucestershire Appeal Ref: APP/P0119/W/21/3288019<sup>71</sup> Inspector Downes afforded substantial weight to the provision of affordable housing, this was for two reasons firstly that the Council's was not meeting its affordable housing needs when assessed as against the figure of 411 dpa and because of the figures on the housing register. Clearly one of those reasons no longer apply in that the Council is meeting its affordable housing needs and will do so even if the Appellants figures on housing land supply are correct. It is unclear what evidence if any was presented at that inquiry on the housing register beyond the total numbers on it. At this inquiry that figure has been further interrogated and it is clear that the total figure does not represent those that fall within the definition of affordable housing need and that the actual figure is 1100 units which is factored into the 411 dpa figure. On the basis of the evidence before this inquiry there are good reasons to depart from the approach to weight taken by Inspector Downes on this issue.

219. Given that the Appellant now accepts that, even on its own housing land supply position, the Council is meeting its assessed need of 411 affordable homes per annum, a key factor that influenced Inspector Downe's decision to afford substantial weight to the provision of affordable housing in Land to the west of Park Farm does not apply in this appeal.

---

<sup>70</sup> CD 7.30, para 94.

<sup>71</sup> CD 5.1.

220. The Council therefore invites the Inspector to afford no more than significant weight to the benefits that would arise from the Appellant's proposal to provide 35% affordable housing at the Appeal Site.

***Self-build.***

221. It is agreed<sup>72</sup> that there are 1,262 people on the self-build register. 429 self-build/custom plots have been delivered/have planning permission, with a shortfall of provision of 824 plots. The proposed development will deliver 5% self-build provision. The Council therefore considers that this should be afforded significant weight, as it will assist in the delivery of up to 9 self-build units. The Appellant affords this substantial weight, however, given the limited impact 9 units will make on the overall shortfall in provision, it is not considered that this level of weight is justifiable as is again over inflated.

222. Again, the Council's position accords with the findings of Inspector Downes, where at paragraph 161 (CD5.1) she affords the delivery of 30 self/custom build units significant weight.

***Economic Benefits.***

223. The Appellant has afforded the economic benefits of this proposal substantial weight. The Local Planning Authority afford the economic benefits of the scheme limited weight.

224. Mr Richards<sup>73</sup> produces a statement on claimed economic benefits of the proposed scheme. Ms Fitzgerald in cross-examination on this document stated that she did not agree with its contents and in particular queried the employment benefits, pointing out that the construction period was finite and no regard was being given to people moving within the area, such that employment would need to be tempered. In addition, she was of the opinion that the inclusion of council tax and business rates should not be deemed

---

<sup>72</sup> (CD7.11)

<sup>73</sup> Appendix JR5 (CD7.22)

as a benefit as these went towards the provision of services provided by the Council. A position agreed by Mr Richard's when asked by the Inspector.

225. Inspector Downes in the Thornbury decision<sup>74</sup>, afforded the economic benefits of that scheme only moderate weight. This proposal was for up to 595 dwellings and included the provision of new jobs during the construction phase and then jobs at the new school, nursery and retail/community hub, whilst there was an additional benefit of new residents supporting local shops and facilities in a much larger market town. In comparison, it can be seen that the Thornbury scheme was a much larger scheme with significant additional benefits over the appeal proposal and in that instance was only afforded moderate weight using the Council's weighting categorisation. When this is compared to the Appellant's substantial weight, it demonstrates that the weight attributed to the economic benefits of the scheme have been over inflated and lack credibility. The Local Planning Authority's limited weight is therefore considered to be entirely more realistic and consistent with Inspector Downe's approach to a much larger scheme.

### ***Social benefits***

226. The Appellant has afforded the delivery of the shop substantial weight. It is submitted that this again is over inflated. The different approach to weight can be considered in the context of the Thornbury decision, in that case, as can be seen at paragraph 163, the scheme delivers a new school, along with a retail/community hub. The Inspector sought to ascribe moderate weight to these benefits. Again given the uncertainty of its delivery and its much smaller scale the attribution of limited weight to this proposal by the Council is reasonable and realistic.

227. When comparing the provision in both the Thornbury case and this appeal, the weight afforded to the 500sqm local shop has been significantly over-inflated, such that the Council's limited weight is evidently more realistic.

---

<sup>74</sup> CD5.1 para 164

228. It is agreed that the other highway improvements only attract limited weight.

229. For the reasons set out extensively above this proposal will be car borne and it is not appropriate to regard the Appellants solutions to that issues as substantial public transport benefit of the scheme. It is a harm that attracts substantial weight.

### ***Environmental Benefits***

230. The scheme will deliver more than 10% BNG. The Appellants give this moderate weight and the Council suggests that this attracts limited weight.

231. It is not accepted for the reasons set out above that this will provide additional POS over the minimum requirement. The Council has nonetheless treated this a benefit of the scheme which attracts limited weight. It is submitted that Mr Jeffries attribution of moderated weight is over inflated.

### **Conclusion**

232. The Council maintains that when the adverse impacts of the Appeal Scheme are properly considered as against the benefits and appropriate weightings are given to those harms and benefits it is clear that the adverse impacts of this proposal would significantly and demonstrably outweigh its benefits. In concluding to the contrary in the officer's report to committee the officer herself recognised that the matter was finely balanced demonstrating that it would be perfectly reasonable to take an alternative view. We submit that during the course of the exchange of evidence and the course of this public inquiry that balance has shifted demonstrating that members were in fact correct to reject this proposal and that rather than being finely balanced it is now clear that the adverse impacts do significantly and demonstrably outweigh the benefits of this scheme.

SUZANNE ORNSBY K.C

CLAIRE NEVIN  
FRANCIS TAYLOR BUILDING