

LAND AT SODBURY ROAD, WICKWAR, SOUTH GLOUCESTERSHIRE

**OPENING SUBMISSIONS ON BEHALF OF SOUTH GLOUCESTERSHIRE
COUNCIL**

INTRODUCTION

1. This is an appeal by Bloor Homes South West (“**the Appellant**”) against the non-determination of the Appellant’s application for outline planning permission by South Gloucestershire Council (“**the Council**”). The Appellant seeks outline planning permission with all matters reserved – except access – for the development of up to 180 dwellings, a local shop and associated infrastructure (“**the Appeal Scheme**”) at Land at Sodbury Road, Wickwar (“**the Appeal Site**”).
2. The Appeal Site, which partially abuts the B4060 Sodbury Road to the east, comprises approximately 7.89ha divided between four fields in agricultural use. The topography of the land ranges from 83-90mAOD with a shallow depression running North-South. Several low field hedgerows and scattered mature trees sub-divide and bound the fields, except for the northern site boundary adjacent to South Farm and the southern end of the western site boundary. The southern boundary touches the junction at Frith Lane. An area of land is retained between the Appeal Site and the properties which front Sodbury Road.
3. As this is an application for outline planning permission, the Appellant highlights 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**”)¹, amended DAS², updated Illustrative Framework Masterplan³ and Landscape Strategy Plan⁴ are merely intended to be of assistance to the Inquiry.⁵

¹ CD 1.4.

² CD 2.2.

³ CD 6.2.

⁴ CD 6.7

⁵ Appellant’s Planning Proof of Evidence at CD 7.21, para 2.17.

4. The Appellant’s plans are more relevant to approving the principle of development than it would care to admit. They should be carefully scrutinised at this inquiry because they cast significant doubt on whether the Appeal Site can in fact accommodate 180 dwellings without causing significant landscape harm to the area.
5. In summary, the Council’s two putative reasons for refusal (“**the Putative Reasons**”) are as follows⁶:
 - i. The adverse impacts of the proposal regarding heritage harm, reliance on car borne transport, landscape harm, conflict with the Spatial Strategy, and recreational pressure on the SSSI significantly and demonstrably outweigh the benefits of the proposal. Therefore, applying paragraph 11(d)(ii) of the NPPF, permission should be refused;
 - ii. The proposal fails to provide and/or secure adequate provision for necessary on-site and off-site infrastructure including affordable housing, public transport, off-site highway works, travel plan measures, education contributions and associated transport, Public Open Space, community infrastructure, a retail unit and self-build/custom build homes.
6. It is agreed that subject to the completion of a suitable section 106 agreement, the second reason for refusal would be suitably addressed except for public transport.
7. Following the exchange of evidence and in the absence of clarification from Natural England, the Council does not intend to pursue any point on agricultural land classification. As such, the Council now considers this matter to be neutral in the planning balance.
8. On 24 October 2023, the Appellant committed to raise its contribution to mitigation measures addressing the additional recreational pressure on the SSSI Lower Woods Reserve from £34,740 to £100,000. This revised figure matches Gloucestershire Wildlife Trust’s calculation of the short-term costs of implementing appropriate

⁶ These reasons — so far as they are relevant to the issues in this appeal — are set out in full in the Council’s Statement of Case (CD 7.2) at para. 1.9. Nothing said in this summary is intended to detract from those reasons which the Council adopts for the purposes of this appeal.

mitigation measures.⁷ However Gloucestershire Wildlife Trust remain concerned over long term effects through the generation of continuous, long-term recreational pressure on the SSSI and as a result the Council maintains the view that harm to the SSSI attracts limited weight in the planning balance.

9. The Council's case at this inquiry is straightforward and can be conveniently summarised as follows:

- i. It is common ground that the housing requirement in the Core Strategy and the settlement boundaries that depend on it are out-of-date. The Council therefore accepts that the "tilted balance" under paragraph 11(d)(ii) of the NPPF is engaged. In other words, the appeal should be allowed unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits;
- ii. The Council maintains that the adverse impacts of the Appeal Scheme would significantly and demonstrably outweigh benefits arising from the provision of housing, affordable housing, self-built plots and new jobs and other benefits such as the potential for a shop, redirected Public Right of Way ("**PROW**"), highway improvements and connections.

10. The adverse impacts that significantly and demonstrably outweigh these benefits are that the appeal scheme would:

- i. Result in heritage harm to the significance of the Grade II listed South Farm and Grade II* listed Frith Farm;
- ii. Be a car borne development;
- iii. Have an unacceptable impact upon landscape character and visual amenity;
- iv. Generate ongoing recreational pressure on the SSSI;
- v. Conflict with the Spatial Strategy.

⁷ Gloucestershire Wildlife Trust Response at Appendix 2 of the Council's Rebuttal Proof, CD 7.31.

11. In ascending order, the standard, accepted categorisation for weighting is *limited, moderate, significant, and substantial weight* with *great weight* attributed to heritage matters. This was the weighting categorisation used by the Inspectors in both the Thornbury and Old Sodbury appeal decisions⁸ and most, if not all, appeal decisions cited in the Core Documents. Indeed, well in advance of the preparation of Proofs of Evidence, it would have been apparent from the Officers' Report to committee and the Putative Reasons for refusal that this was the weighting categorisation adopted by the Council in this appeal.
12. However, the Appellant's planning witness, Mr Richards, has departed from the standard weighting categorisation in his Proof of Evidence.⁹ This divergence on weighting means that matters of weighting thought to be agreed between the parties in the Planning Statement of Common Ground are not in fact agreed. Despite the Council's best efforts, it has not been possible to clarify the parties' respective positions on weighting in an agreed addendum to the Statement of Common Ground. However, in this opening statement, the Council will endeavour to assist the Inspector with what we say is the correct weighting on the adverse impacts and benefits arising in this appeal.

ADVERSE IMPACTS

Heritage Harm

13. There are several designated heritage assets within the vicinity of the Appeal Site. These are: Grade II South Farm, Grade II* Frith Farm and the Wickwar Conservation Area. It must be remembered that section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paragraph 199 of the NPPF require that *any harm* to designated heritage assets be given considerable importance and great weight in the overall planning balance.
14. It is agreed that there would be less than substantial harm to the significance of South Farm at the lower end of the spectrum due to a change in setting.¹⁰ The Council maintains that there would also be less than substantial harm to the significance of Frith

⁸ Land to the West of Park Farm, Thornbury at CD 5.1 and Land South of Badminton Road, Old Sodbury at CD 5.2.

⁹ Appellant's Planning Proof of Evidence at CD 7.21, para 8.2.

¹⁰ Heritage Statement of Common Ground at CD 7.9, para 1.3.

Farm due to a change in setting. The Appellant, on the other hand, argues that there would be no harm to Frith Farm. It is common ground that there would be no harm to the special architectural or historic interest of the Wickwar Conservation Area.¹¹

15. South Farm is an historic farmhouse dating from the early to middle of the eighteenth century that remains a working farm to the present day. Its rural setting contributes to its heritage significance by allowing it to be experienced within its historic agricultural setting.
16. The Appeal Scheme would appear as a significant visual intrusion into the rural landscape, thereby eroding the appreciable spatial and visual connection between South Farm and its historically associated land. The Appeal Scheme would result in further harm to the setting of South Farm by removing part of its existing historic roadside stone boundary wall to facilitate the northern vehicular access to the Appeal Site.
17. Frith Farm is a circa late seventeenth century farmhouse that may incorporate an earlier building. It is a “high status” gentry house whose isolated setting can be considered to reflect the wealth and status of the owner within the surrounding landscape. It remains in use as a working farm. The proximity of the Appeal Site to Frith Farm would result in the Appeal Scheme’s encroachment into the setting of Frith Farm, thereby harming its historic prominence and legibility within its Countryside and agricultural setting.

Car Borne Development

18. Developments should be focussed in areas which are or can be made sustainable by limiting the need to travel and offering a genuine choice of transport modes. This is a national policy requirement that is reflected in Development Plan Policies CS8 and PSP11. Contrary to PSP11, the majority of services and facilities are in excess of appropriate walking distances from the Appeal Site¹² and it is the Council’s case that 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. This would be a serious adverse impact that attracts substantial weight in the planning balance.

¹¹ *Ibid.*, para 1.5.

¹² Council’s Rebuttal Proof at CD 7.31, para 4.11.

Landscape Harm

19. The intrinsic function of the Appeal Site is the physical and visual connectivity it provides between the village and its landscape surroundings. It is the Council's case that the development is not well-related to the existing settlement pattern of Wickwar and would be a backland site that protrudes into the open countryside. The Appellant agrees that a level of harm would accrue to the landscape and visual context¹³ but considers that this is an unavoidable result of development and that some of the harms can be mitigated through design and landscaping measures.

20. The Council disagrees. It objects to the principle of development on this site and does not consider that the nature and scale of this Appeal Scheme can be mitigated by green infrastructure and landscaping. The landscape harms that would result from the Appeal Scheme should therefore be given significant weight in the planning balance.

Recreational Pressure on the SSSI

21. The Appellant has committed to contribute £100,000 to implement mitigation and management work aimed at preventing the deterioration of the SSSI in the short-term. However, the ongoing funding of management and mitigation measures would be necessary to manage the continuous recreational pressure that the Appeal Scheme will exert on the SSSI in the long-term. The Council's position therefore remains that recreational pressure on the SSSI would be an adverse impact that attracts limited weight.

Conflict with the Spatial Strategy

22. The Development Plan relevant to this appeal is comprised of the South Gloucestershire Local Plan Core Strategy (December 2013) and South Gloucestershire Local Plan Policies, Sites and Places Plan (November 2017). The Core Strategy was submitted prior to the publication of the 2012 NPPF. Therefore, as the Core Strategy's housing requirement did not take account of the wider Bristol Housing market area, it is common ground that Policies CS5 and CS34 of the Core Strategy are out of date and that the

¹³ Landscape Statement of Common Ground at CD 7.8, para 1.3.

“tilted balance” under paragraph 11(d)(ii) is engaged. As such, the Council recognises that limited weight should attach to any conflict with the Spatial Strategy.

23. It is common ground that, in line with paragraph 74 of the NPPF, the Council has been using the Standard Method for calculating five-year housing land supply.¹⁴ The Council maintains that its latest 2022 AMR published in 2023¹⁵ demonstrates a deliverable supply of 5.35 years. The Appellant disputes this figure on the basis that sites listed at Appendix 1 of the Statement of Common Ground on Five-Year Housing Land Supply do not demonstrate the level of deliverability claimed by the Council. The extent of the dispute between the parties is that the Appellant considers that the Council can only demonstrate a deliverable supply of 4.44 years.

24. The Glossary to the NPPF 2023 clarifies that 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.¹⁶ This is essentially a matter of judgment which will be influenced by whether there is clear evidence that housing will be delivered within five years. On the disputed sites, it is the Council’s case that it can demonstrate a five-year housing land supply because there is clear evidence that the disputed sites will deliver housing within the five-year period.

APPROACH TO THE PLANNING BALANCE

25. The Council accepts that the “tilted balance” is engaged on the basis that Policies CS5 and CS34 of the Core Strategy are out of date. When applying the “tilted balance”, it is the Council’s case that the heritage harms (great weight), car borne nature of the development (substantial weight), landscape harm (significant weight) and conflict with the Spatial Strategy (limited weight) and harm to the SSSI (limited weight) significantly and demonstrably outweigh the benefits of the proposal. The tilted planning balance between harms and benefits militates in favouring of dismissing the appeal because:

- i. The Council recognises the benefit of delivering market, affordable and self-build housing and places significant weight on this. However, the Council

¹⁴ Five-Year Housing Land Supply Statement of Common Ground at CD 7.10, para 2.3.

¹⁵ CD 4.11.

¹⁶ NPPF 2023 at CD 4.7, Annex 2, p.67.

maintains that it can demonstrate a five-year housing land supply and that it is complying with its obligation to deliver 411 affordable dwellings per year in accordance with the West of England Local Housing Needs Assessment (LHNA) 2021. The Appellant's incorrect assessment of a shortfall of -6,882 affordable dwellings for the period 2009-2021¹⁷ is based on its erroneous reliance on a historic SHMA published in 2009. Taking account of the Council's successful provision of market and affordable housing, the appropriate weighting categorisation for this benefit is significant weight. It would be disproportionate to apply the highest weighting categorisation to housing provision, as argued by the Appellant;

- ii. There is ambiguity over the deliverability of the proposed shop given the lack of commitment from any potential end user. The Council is also concerned that the location of the shop over 700m from the edge of the village will reduce the opportunity for linked trips to the village. As such, this benefit attracts only limited weight;
- iii. The Appellant maintains that its expected delivery of 35% BNG and potential to increase this to 55% BNG based on the updated Illustrative Framework Masterplan will be a benefit of the Appeal Scheme attracting moderate weight.¹⁸ The Council's position is that the delivery of BNG in excess of the Government's future policy requirement of 10% is a benefit that attracts limited weight;
- iv. Other benefits including additional highway works to improve accessibility to the school, an additional PROW link to the adjacent PROW network and provision of new jobs would not result in anything more than limited weight in favour of the development.

26. It follows that when applying the "tilted balance" under paragraph 11(d)(ii) of the NPPF, the harms that would be caused by the Appeal Scheme significantly and demonstrably outweigh the benefits. Planning permission should therefore be refused for the development.

¹⁷ Appellant's Affordable Housing Statement at CD 7.22, Appendix 2, para 6.16.

¹⁸ Appellant's Planning Proof of Evidence at CD 7.21, para 8.44.

27. Accordingly, in due course, the Council will invite you to dismiss this appeal.

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