

Appeal by Bloor Homes South West

Land at Sodbury Road, Wickwar, South
Gloucestershire

Appeal ref. APP/P0119/W/23/3323836

LPA ref. P22/01300/O

Proof of Evidence - Planning

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Executive Summary

Preliminaries

1. I am instructed to present evidence at this Inquiry by Bloor Homes South West, herein referred to as 'the Appellant'.
2. This proof of evidence addresses the overall planning merits of the Appeal Proposal. I have also produced a separate proof of evidence on housing delivery and housing land supply.
3. This Appeal follows the submission of an appeal against the non-determination of South Gloucestershire Council ('SGC' or 'the Council') of an outline planning application proposing the erection of up to 180 dwellings, a local shop and associated infrastructure (Outline) with access to be determined; all other matters reserved. The application was submitted in outline form with all matters reserved except for the primary accesses from Sodbury Road.

The Council's Putative Reasons for Refusal and the Focus for My Evidence

4. The Council has advanced only two putative reasons for refusal in this case as follows:

"1) The adverse impacts of the proposal with regard to:

- *Less than substantial harm to South Farm – great weight*
- *Less than substantial harm to Frith Farm – great weight,*
- *Less than substantial harm to Wickwar Conservation Area – great weight,*
- *Increase reliance on car borne transport – substantial weight,*
- *Landscape Harm – significant weight*
- *Conflict with Spatial Strategy – limited weight*
- *Loss of Grade 3 agricultural land – limited weight*
- *Recreational pressure on SSSI – limited weight*

significantly and demonstrably outweigh the benefits of the proposal, which are:

- *Provision of housing – significant weight,*
- *Affordable housing – significant weight,*
- *Provision of self-build plots – significant weight,*
- *Provision of new jobs – limited weight,*
- *Other benefits (potential for a shop, redirected Public Right of Way, highway improvements and connections) – limited weight*

and therefore, applying paragraph 11(d)(ii) of the NPPF, permission should be refused.

2) The proposal development fails to provide and/or secure adequate provision for necessary on-site and off-site infrastructure. Such infrastructure shall include (but is not limited to) Affordable Housing; Public Transport; off-site highways works; Travel Plan measures; Education contributions to nursery, primary and secondary education and associated transport; Public Open Space; Community Infrastructure; A retail unit and

Self-build/custom build homes. The proposal is therefore contrary to policy CS6 of the South Gloucestershire Core Strategy 2006-2027.

5. A S106 agreement is expected to deal with the Council's second reason for refusal. On that basis, my evidence focuses on the Council's first reason for refusal including the adverse impacts alleged and the overall conclusions that those adverse impacts significantly and demonstrably outweigh the benefits, when considered against paragraph 11 d) ii. of the NPPF.

The National Planning Policy Framework and the Presumption in Favour of Sustainable Development

The South Gloucestershire Core Strategy is Not Compliant with the NPPF and is Out of Date

6. Importantly, and as is confirmed in the above putative reason for refusal 1, there is agreement at this Appeal that the tilted balance at paragraph 11 d ii) applies. This is regardless of the Council's position on five year housing land supply.
7. The South Gloucestershire Core Strategy (CS) was adopted in December 2013. The housing requirement on which the spatial strategy is based is reliant on a SHMA that pre-dated the NPPF. It therefore had no regard to the duty to co-operate or to consider the needs of the wider Housing Market Area (HMA).
8. The housing requirement in the CS and the settlement boundaries that depend on it, are, therefore, not compliant with the Framework and are out-of-date. The policies which are the most important for determining the Appeal in the adopted Development Plan are also out of date. These findings were confirmed recently in two appeal decisions in South Gloucestershire¹.
9. There is a substantial policy vacuum in South Gloucestershire, with the CS now nearly 10 years of age and only planning for housing needs on the basis of a SHMA that was not NPPF compliant, and which did not consider wider housing needs across the West of England. The CS adoption was also predicated on a review of the plan having been completed by 2018, but no review has been completed and my evidence shows that attempts to prepare a strategic plan with other authorities in the West of England have failed. The CS clearly does not provide an up-to-date or effective plan for the delivery of housing needs in South Gloucestershire, let alone consider any wider housing needs (Bristol's unmet housing needs for example) that South Gloucestershire is expected to need to meet.

¹ The first in an appeal on land south of Badminton Road, Old Sodbury (appeal ref. 3303905 (**Core Document 5.2**)) and the second in an appeal on land to the west of Park Farm, Thornbury (appeal ref. 3288019 (**Core Document 5.1**)).

Housing Delivery to Date and the Council's Ability to Demonstrate a Sufficient Five Year Housing Land Supply

Housing Delivery to Date

10. I also present evidence on the Council's housing delivery to date and its five year housing land supply.
11. That evidence identifies that there has been a cumulative under-delivery in South Gloucestershire since the start of the plan period (2006) to the 1st April 2022 base date of **2,737 homes**.
12. Furthermore, my separate evidence also shows that, using the Council's own figures on predicted deliverable supply in the next 5 years (which takes us to 2027, the end of the final year of the CS plan period), the cumulative under-delivery against the minimum housing requirement in the Plan will still be **1,819 homes**.
13. Even if the Council's predicted delivery is achieved (and my evidence disputes the Council's deliverable supply in the next five years), this remains a very significant shortfall and demonstrates that the Council's housing strategy, even on its own claimed delivery figures, will fail over the plan period with substantially fewer homes being delivered compared to the minimum requirement – a requirement that should not be forgotten is not NPPF compliant and takes no consideration of wider needs in the housing market area. This is, again, an important material consideration notwithstanding the five year housing land supply position.
14. Indeed, my evidence finds that the failure of South Gloucestershire, with its neighbouring authorities, to progress forward with joint plan making has, in my view, driven under-delivery issues in the area; resulted in a lack of any action plan on how to address shortfalls in delivery that have accrued to date, and will accrue in the plan period as a whole; and provides no strategy on how to meet current and future housing needs in South Gloucestershire and across the wider housing market area.

The Council's Five Year Housing Land Supply

15. In respect of the Council's five year housing land supply position, the Council (**Core Document 4.11**) claims a deliverable supply in the five year period of 7,673 homes against a requirement of 7,170 homes, a requirement which is based on a standard method derived Local Housing Need (LHN) and using a 5% buffer. This equates to a claimed supply of **5.35 years** (a **surplus of 503 homes**).
16. However, having considered the sites and sources of supply that the Council includes in the housing land supply, my evidence concludes that several sites which should not be included in the Council's deliverable supply (when considered against the NPPF definition of 'deliverable') or where other reductions in supply should be made. Based on the **deduction of 1,311 homes** from the Council's supply that I say is appropriate in this case, the Council is only able to demonstrate a **4.44 year supply**, a **shortfall of 810 homes**.

17. The Council's inability to demonstrate a sufficient five year housing land supply in accordance with paragraph 74 of the NPPF would also lead to the presumption in favour of sustainable development at paragraph 11 of the NPPF being triggered (on top of the presumption already being triggered as a result of the CS not being compliant with the NPPF, and out of date in any event). It is also a position that adds further weight to the benefit of the delivery of homes from the Appeal Site.

Accordance with the Development Plan

18. There are no actual Development Plan policies that are cited by the Council in its putative reason for refusal. However, the Council does make reference to conflict with the Council's spatial strategy, and there are also other alleged adverse impacts to landscape, heritage, agricultural land (through its loss) and ecology (through recreational impacts to the Lower Woods SSSI) on which there are relevant Development Plan policies.
19. My evidence finds that the Appeal Proposals are in conflict with Policy CS5 and Policy CS34 given the site's location outside of the settlement boundary of Wickwar. However, there is agreement here that these policies are out of date and should be afforded only limited weight.
20. There is also conflict with the landscape aspects of Policy CS9, however, that conflict would appear to be an inevitable consequence of a greenfield development. Furthermore, to the extent that this policy is an important determinant in this Appeal, I note that the Inspector in the recent Thornbury appeal found this to be a most important policy for the determination of that appeal².
21. I find that Policy PSP2 (in respect of landscape impact) is more nuanced and, whilst there is some acknowledged harm, the policy allows development to come forward where the benefits of the proposals outweigh the harm and where harm is minimised and mitigated through the form of the development and, where reasonable, the provision of landscape enhancements. There are important benefits in this case that substantially outweigh any landscape harm in my view, and appropriate design and landscape mitigation has been embedded into the Appeal Proposals. My evidence, therefore, finds that the Appeal Proposals should be found to accord with PSP2.
22. In respect of heritage policies, it is the Appellant's case that there would be a very minor degree of less than substantial harm to one heritage asset (South Farmhouse). As such, there is some conflict with both Policy CS9 and PSP17. However, both policies are not compliant with the NPPF (as concluded in the Thornbury appeal decision (**Core Document 5.1**)) and so any conflict with the policies must, therefore, be afforded less weight in the balance.
23. I also find that there is no conflict with policies in respect of ecology/biodiversity, the protection of SSSIs, the loss of best and most versatile agricultural land and accessibility³.
24. Importantly, in terms of the overall Development Plan and the Appeal Scheme's accordance or otherwise with it, given that there is agreement in this case that the CS is

² Paragraph 169 of **Core Document 5.1**

³ Policies CS8, CS9, PSP18 and PSP19

out of date, the NPPF is clear that applications and appeals should be considered in the context of the presumption in favour of sustainable development. My evidence finds that Policy CS4A of the Core Strategy also repeats this presumption.

25. Policy CS4A requires permission to be granted unless the impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Development Plan and NPPF taken as a whole, or unless specific policies in the Development Plan or Framework indicate that development should be restricted.

Overall Planning Balance and Conclusions

26. Against both Policy CS4A and paragraph 11 of the NPPF, my evidence finds that there are no specific policies in the Framework (including those relating to heritage) that indicate that the development should be restricted and so it is necessary to consider whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits. Those adverse effects would rightly, in my view, include any adverse effects as a result of any conflict (and harm arising from that conflict) that I identify with other policies in the Development Plan, including the conflict my evidence identifies with Policy CS5, CS9, CS34 and PSP17.
27. My evidence finds that the benefits of the Appeal Proposals are substantial and include the delivery of market homes, affordable homes and self/custom build homes; land for a shop and measures to secure its delivery; measures to secure an enhanced and viable bus service for the Appeal Development and Village as a whole; and other significant economic, social and environmental benefits.
28. When compared to the benefits, I find that there are limited adverse effects in this case. My assessment of benefits and adverse impacts are confirmed in Summary Table 1, below:

SUMMARY TABLE 1 - OVERALL BALANCE OF PLANNING CONSIDERATIONS			
POSITIVE BENEFIT		ADVERSE IMPACT	
Positive Benefit	Weight to be Given	Adverse Effect	Weight to be Given
Housing delivery	Significant weight	Harm arising as a result of conflict with the Council's Spatial Strategy⁴	Limited weight

⁴ My evidence finds that there is conflict with the Council's spatial strategy, to which I have assigned harm and given it limited weight, however given the presence of Policy CS4A which provides statutory provision to the presumption in favour of sustainable development, I have concluded that the Development is in accordance with the Development Plan when considered as a whole.

Affordable housing Provision	Significant weight ⁵	Impact on the Character and Appearance of the Area	Moderate weight
Delivery of Self Build/Custom Homes	Significant weight	Heritage harm South Farm	Great Weight
The Provision of Land for a Shop and Appropriate S106 Obligations to Secure its Delivery	Significant Weight	Loss of Agricultural Land	Negligible to no weight
Reduced Reliance on Car Borne Transport: Provisions to Secure a Viable Bus Service for the New Development and the Village as a Whole	Significant weight	Other matters Raised by Third parties	No to very limited weight
Other Highway/ Accessibility Improvements	Limited weight		
Economic Benefits	Significant weight		
On Site Environmental Benefits	Moderate weight		
Environmental benefits for Lower Woods SSSI	Moderate weight		
Additional social benefits	Moderate weight		

⁵ Mr Stacey, in his evidence, suggests that substantial weight should be afforded to the delivery of affordable homes. My scale of weighting is no weight, limited weight, moderate weight and significant weight. As such, Mr Stacey's 'substantial' aligns with my 'significant' i.e. it falls at the top end of my scale, and this does not mean that I see the delivery of affordable housing as any lesser benefit than Mr Stacey. The Council also affords this benefit 'significant weight' in its SOC (**CD 7.2**), although I am not aware of the scale that the Council's planning witness, Ms Fitzgerald, intends to use - for example, I do not know if Ms Fitzgerald also uses substantial weight and, therefore, considers the delivery of affordable housing to be a lesser benefit.

29. Having summarised the benefits and adverse impacts, my evidence concludes that there are limited adverse effects in this case, and they do not outweigh the significant benefits of the proposals, let alone significantly and demonstrably outweigh those benefits.
30. As a result, when considering the Development Plan as a whole and the application of Policy CS4A, my evidence concludes that the Appeal Development would accord with Policy C4A and so with the Plan as a whole, and so planning permission should be granted without delay.
31. The Appeal Proposals would also accord with the requirements of paragraph 11 of the NPPF as there are no adverse impacts that would significant and demonstrably outweigh the benefits in this case.
32. For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, I find that the Appeal Proposals accord with the Development Plan and the material considerations also support the grant of planning permission. On that basis, I respectfully request that the Appeal should be allowed and planning permission granted.

1. Introduction and Preliminary Matters

- 1.1 My name is Jeff Richards, and I am a Senior Director at Turley. I am instructed to present evidence at this Inquiry by Bloor Homes South West, herein referred to as 'the Appellant'.
- 1.2 This Appeal follows the submission of an appeal against the non-determination of South Gloucestershire Council ('the Council' or 'SGC') of an outline planning application proposing the erection of up to 180 dwellings, a local shop and associated infrastructure on land at Sodbury Road, Wickwar. The application was submitted in outline form with all matters reserved except for the primary accesses from Sodbury Road.
- 1.3 My evidence addresses the overall planning merits of the Appeal Proposals and should be read in conjunction with that of three other witnesses for the Appellant, namely:
 - Mr Will Gardner of EDP on Landscape;
 - Mr Rob Skinner of EDP on Heritage; and
 - Mr David Knight of NRP on Highways and Sustainable Travel Matters.
- 1.4 My evidence is also supported by Statements or letters that are provided as appendices to this proof of evidence on the following matters:
 - An Affordable Housing Statement – prepared by Tetlow King (**Appendix JR2**).
 - An Ecology Briefing Note which considers the potential for recreation impacts to the Lower Woods SSSI (**Appendix JR3**).
 - A Biodiversity Net Gains Calculations Note that updates the previous BNG assessment, based on the revised Illustrative Framework Masterplan (**Appendix JR4**).
 - An Economic Benefits Statement prepared by Turley Economics (**Appendix JR5**).
 - A letter on Agricultural Land Quality prepared by Land Research Associates (**Appendix JR7**); and
 - A letter on the proposed shop from Mid Counties Co-operative (**Appendix JR8**).
- 1.5 This planning proof of evidence should also be read in conjunction with a separate proof of evidence that I have prepared, and which deals with the Council's housing delivery to date and the Council's ability to demonstrate a five year housing land supply. This follows an earlier Technical Note (**Core Document 7.5**) that was submitted for the Appeal on 19th September 2023, following a request to do so by the Inspector at the Case Management Call (CMC).
- 1.6 Turley managed the planning application which was submitted to South Gloucestershire Council ('the Council' or 'SGC') in March 2022. The statutory timeframe for a decision ended on 20 June 2022, but extensions of time for determination of the application were

agreed with the Council, with the final extension of time agreed until 21 April 2023. The Council failed to make a determination by that date, and an appeal was submitted against the Council's non determination of the application in June 2023.

- 1.7 Following the Council's failure to determine the application by the statutory determination date, the Appellant instructed me to advise them on the proposals and to subsequently progress the Appeal and provide both overall planning and housing delivery and five year housing land supply evidence at this Inquiry.
- 1.8 The evidence which I have prepared and provide for this Appeal (PINS Reference No. APP/P0119/W/23/3323836) is true and has been prepared in accordance with the guidance of my professional institution. I confirm that the opinions expressed are true and professional opinions, irrespective of by whom I am instructed.

Qualifications

- 1.9 I have an Honours Degree in Town & Country Planning and a Masters degree in Town Planning, both from the University of the West of England. I am also a Member of the Royal Town Planning Institute and have over 22 years' experience in the planning profession.
- 1.10 I joined Turley as a Director in November 2014, I held the role of Head of Planning South West (Heading up Turley's Bristol and Cardiff Offices) between 2016 and 2022 and I now hold the position of Senior Director. Turley has been working in planning and property for 40 years and is now one of the largest, leading planning practices in the UK, with offices in 14 locations.
- 1.11 Before my role at Turley, I practiced as a Planning Consultant with WYG for over 11 years, including as a Director from June 2013. Prior to that, I worked as a Planning Officer in Local Government at North Somerset Council for over 2 years.
- 1.12 I advise on a large range of development across many sectors, but hold a particular specialism in residential development where I provide strategic advice on residential promotions and progress numerous applications for development. I am currently advising on sites that, in total, will deliver over 20,000 new homes. Further details of some of the projects I have been involved in or I am currently involved in are provided at **Appendix JR1**.
- 1.13 I have given professional evidence on the overall planning merits of proposed development schemes, including many housing related proposals, at numerous Public Inquiries. I also hold a particular specialism in housing delivery and housing and supply, on which I have prepared a separate proof of evidence.

Main Issues

- 1.14 For the Case Management Conference ("CMC") and in his subsequent note of the CMC, the Inspector helpfully set out the following main issues to be addressed during the Inquiry. These are as follows:
 - a) the effect of the proposal on the historic environment;

- b) the extent to which the proposal would contribute to the objectives of limiting the need to travel and offering a genuine choice of transport modes;
- c) the effect of the proposal on the character and appearance of the area;
- d) the nature and extent of any economic, social and environmental benefits, and any harm, resulting from the proposal; and
- e) whether arrangements are in place to secure affordable housing and any infrastructure required to support the development.

Scope of My Evidence

- 1.15 My evidence considers the overall planning merits of the Appeal Proposals when assessed against the Development Plan.
- 1.16 My evidence also takes account of a number of important material considerations that I consider relevant to the determination of the Appeal Proposals including national planning policy as set out within the National Planning Policy Framework (NPPF) September 2023.
- 1.17 In doing so, my evidence will address **main issue d)** and consider the nature and extent of economic, social and environmental benefits, as well as any adverse impacts and the weight to be given to each as part of the overall planning balance.
- 1.18 In considering the overall planning balance, my evidence will also draw on the evidence of Mr Rob Skinner of EDP on heritage in respect of **main issue a)**; the evidence of Mr David Knight on highways and sustainable travel in respect of **main issue b)**; and the evidence of Mr Will Gardner of EDP on character and appearance in respect of **main issue c)**.
- 1.19 I will also consider the conclusions of the additional technical notes and letters appended to this proof of evidence (as set out at paragraph 1.3), as well as earlier technical reports that were submitted in support of the planning application, which are included in Section 1 and 2 of the Core Documents for the Appeal.
- 1.20 I will also consider the findings, and set out the implications for decision making, of my separate proof of evidence on housing delivery and five year housing land supply, and use that evidence to support the weight to be given to the benefits of housing delivery from the Appeal Proposals.
- 1.21 Finally, I will also consider any other issues raised by Wickwar Parish Council, Yate Town Council (as the neighbouring parish) and by third parties.
- 1.22 In respect of **main issue e)**, I expect the two main parties to agree a S106 legal agreement for the site ahead of the Inquiry. That S106 agreement will secure affordable housing (35%, up to 63 affordable homes), the delivery of land for the shop (and measures to secure its delivery), the delivery and maintenance of open space, highway improvements, education contributions and other infrastructure.

- 1.23 The need for all of the financial contributions is agreed, in principle, although there remains a dispute the quantum of the financial contribution towards bus services. Whilst evidence in this matter is included in the proof of evidence of Mr David Knight for the Appellant, the intention of the Appellant is for the S106 legal agreement to be drafted in such a manner as to allow the Inspector to determine the appropriate final financial contribution that will be secured.
- 1.24 As such, aside from appropriate consideration at the Inquiry of the precise s106 provisions to be secured (which will necessitate the consideration of evidence from both parties on bus contributions), issue **e**) should not be a matter of dispute between the Appellant and the Council. Nevertheless, I do refer to the provisions secured through the S106 because a number of those provisions secure important benefits that weigh in favour of allowing the Appeal.
- 1.25 I have structured my evidence as follows:
- **Section 2** – provides a brief summary of the Appeal Proposals;
 - **Section 3** – I comment briefly on the Appeal Site and surroundings noting that this information is already set out in detail within the Planning Statement that accompanies the application (**Core Document 1.20**), other supporting documents, such as the Design and Access Statement (DAS) (most recently updated in December 2022) (**Core Document 2.2**) and the Landscape and Visual Baseline Assessment (LVA) (**Core Document 1.11**) and, more recently, at Section 2 of the Appellant’s Statement of Case (SoC) (**Core Document 7.3**).
 - **Section 4** – I summarise the Council’s consideration of the application, including the putative reasons for refusal it has advanced, and the matters to be considered by my evidence.
 - **Section 5** – within this section of my evidence I summarise my assessment of the key planning policy issues relevant to the Appeal.
 - **Section 6** – here, I consider the NPPF and the presumption in favour of sustainable development at paragraph 11. I consider the implications of the agreement in this case that the Council’s Core Strategy (CS) is out of date (triggering the presumption) and also the implications of the Council’s housing delivery performance and its ability to demonstrate a sufficient five year housing land supply as required by paragraph 74 of the NPPF.
 - **Section 7** – I provide my assessment of the planning merits of the Appeal Proposals, starting with a consideration of the Appeal Proposals against the policies of the adopted Development Plan.
 - **Section 8** – here, having established that the presumption in favour of sustainable development at NPPF paragraph 11 applies, I consider whether any adverse effects significantly and demonstrably outweigh the benefits, as required by NPPF paragraph 11 d) iii.

- **Section 9** – I provide my assessment of the overall planning balance in this case, weighing the benefits of the proposals against any identified adverse effects; and
- **Section 10** – I provide my summary and conclusions.

2. The Appeal Proposals

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

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

- 2.2 All matters except for the two primary vehicular access points from Sodbury Road are reserved for subsequent approval. Those plans for approval are listed at paragraph 4.1 of the main (Planning) Statement of Common Ground (SOCG) (**Core Document 7.11**).
- 2.3 The proposals will provide 35% affordable housing (up to 63 homes) in accordance with the adopted Core Strategy (CS) (Policy CS18). It will also secure 5% of the dwellings (up to 9 homes) as self-build and/or custom build homes in accordance with the adopted Policies, Sites and Places Plan (PSPP) (Policy PSP42).
- 2.4 The Appeal Proposals will also deliver a significant quantum of open space in excess of policy requirements⁶. This overall level/quantum of open space will be secured in the final S106 Agreement
- 2.5 Various highway improvements (as listed in the SOCG on highway matters (**Core Document 7.6**)) and the provisions of a new bus stop on Sodbury Road (as shown on drawing ref. 7909-SK02 Rev 2 at **Core Document 2.4**) are also proposed as part of the Appeal Scheme (and will be secured by the S106 Agreement).
- 2.6 Although full details for the scheme are not provided (as the matters of layout, scale appearance and landscape are reserved for future determination), an Illustrative Masterplan for the proposal (**Core Document 1.3**) was initially produced (and submitted with the original planning application in March 2022) to provide an indication of how the site could be developed in a well-designed manner. Details of key development 'parameters' (heights, uses, access and movement) were also suggested within the originally submitted DAS (**Core Document 1.4**). Both the Illustrative Masterplan and the DAS were subsequently amended, as set out below.
- 2.7 The proposed local shop is also in outline only, but consideration has been given to the land required to accommodate such a facility and appropriate allowance has been made to accommodate this use within this area, having regard to input provided by potential operators. The provision of land for a shop and measures to support its successful delivery are secured in the S106 Agreement.

⁶ Pages 84 and 85 of the DAS (**Core Document 2.2**) shows that 2.58ha of open space will be provided. Excluding outdoor sports (for which a financial contribution towards offsite provision will be secured by the S106), this is 1.13 ha more than required by policy (and this also excludes the proposed attenuation basins). The overall 'Open Spaces' to be secured in the S106 (which is defined as including the allotments the ancillary open space the public open space and the surface water infrastructure is 3.25ha).

Amendments to the Application During Determination and Prior to the Inquiry

- 2.8 The Appellant's carefully reviewed the representations made to the application, including comments raised on design, transport and access, flood risk, landscape, heritage and ecology. Amendments to the scheme were submitted in response to various stakeholder comments and the outcome of the Design Review (undertaken by the Design West Review Panel (DRP)) in 2022 (with the DRP comments provided at **Core Document 3.3**). The comments made and scheme response following the Design Review process, and in response to SGC Officer comments, are summarised on Pages 46 to 49 in the updated DAS (**Core Document 2.2**).
- 2.9 The full list of amended and updated documents, on which a decision on this Appeal should now be made, are set out in Section 2 of the Core Documents list.
- 2.10 These amendments were submitted on 27 February 2023. The changes did not result in amendments to the description of the proposed development as originally submitted. The Council consulted on the amendments made, and responses were received from various parties.

Further Updated Illustrative Framework Masterplan, and Associated Parameter Plans – Post Appeal Submission

- 2.11 In advance of the CMC, the Appellant wrote to the Planning Inspectorate case officer confirming its intention to submit to the Inquiry an updated Illustrative Framework Masterplan (provided at **Core Document 6.2**). This had been prepared in response to a matter on landscape raised through the Council's Statement of Case and was intended to seek to narrow the areas of disagreement on landscape matters between the two main parties ahead of the inquiry.
- 2.12 Paragraph 4.5 of the Council's SoC states the following:
- "The design of the western and southern site boundary treatments does not demonstrate delivery of a well-designed articulated green edge/buffer between the proposed housing and wider countryside facilitating the softened transition to the adjacent countryside as cited in the submitted LVA."*
- 2.13 The Appeal Scheme is in outline form with all matters (except for the main points of access) reserved for future determination. An illustrative Framework Masterplan was submitted with the application (the latest plan submitted with the application being provided at **Core Document 2.1**) and is not a plan to be determined through the Appeal. Nevertheless, the Appellant prepared the updated Illustrative Framework Masterplan, **Core Document 6.2** (which shows an amended approach to the provision of green infrastructure on the southern extent of the site - i.e. an increased green edge is shown) as it was considered that this would be helpful to the Inquiry and to the main parties being able to narrow points of disagreement. This is not because the Appellant considers there is any merit in the Council's case, but simply as an attempt to narrow the points of disagreement between the parties to assist inquiry proceedings.
- 2.14 The Appellant contacted the Council on 23 August (with a draft version of this plan) to ask if the Council would be agreeable to this plan being provided to the Inquiry and to

the parties making reference to this plan in the emerging landscape SoCG and evidence. We also confirmed that the Appellant would be happy to provide a further landscape strategy plan providing more detail of the potential (indicative) landscape approach on this edge, again if considered helpful, and that is provided in the evidence of Mr Will Gardner and also provided at **(Core Document 6.7)**.

- 2.15 The Appellant received email confirmation on the 6 September 2023 from the Council's appointed consultant (and planning witness), Liz Fitzgerald, that it would have no objection to the submission of this amended Illustrative Framework Masterplan.
- 2.16 At the CMC, the Inspector confirmed that, as an illustrative plan only and not one to be listed as an approved plan for any outline consent that may be granted, he would also have no objection to the amended Illustrative Framework Masterplan being provided to the Inquiry. It is this Illustrative Masterplan (at **Core Document 6.2**) that will be referred to in evidence, as showing one way in which the Appellant considers the development could appropriately come forward, and not the earlier masterplan provided at **Core Document 2.1**.
- 2.17 Following the production of the updated Illustrative Framework Masterplan, the Council also asked the Appellant if the other illustrative parameter plans and illustrative layout, as previously provided in the latest DAS (**Core Document 2.2**) could be prepared. The Appellant has updated those plans, and these are provided as series of plans at **Core Document 6.12**. Again, these are not plans to be determined, but are hopefully of assistance to the Inquiry.

3. The Appeal Site and Surroundings

Site Location and Context

- 3.1 The site is located within the administrative boundary of SGC, and the Parish of Wickwar. A Site Location Plan is included at **Core Document 1.2**.
- 3.2 The site comprises approximately 7.89 hectares of undeveloped (agricultural) land located to the southwest of Wickwar.
- 3.3 The site lies to the west of Sodbury road, fronting this road at the northern and southern extents, and otherwise lying to the rear (west) of existing built development on the western side of Sodbury Road. Existing and consented residential development lies opposite the site on the eastern side of Sodbury Road. I consider the Council's determination of these schemes in more detail later in my evidence.
- 3.4 Wickwar lies at the north eastern edge of South Gloucestershire approximately 2.5 miles south of Charfield and 3 miles north of the centre of Yate to the south. Existing bus stops are located on Sodbury Road and which provide bus services between these two centres (and to Wooton under Edge, beyond). A new bus stop close to the Appeal Site is proposed by the Appeal Proposals (as shown on drawing ref. 7909-SK02 Rev 2 at **Core Document 2.4**).
- 3.5 Two access points into the site are proposed as part of this application, both on to Sodbury road. The site adjoins the existing defined settlement boundary at the point of the northern access. The existing development along Sodbury Road from this point south is not currently within the settlement boundary (as defined by the Development Plan) as the settlement boundary was last updated in 2013 with the adoption of the Core Strategy and the Council agrees that it cannot be considered up to date⁷ – an extract of the current Development Plan Proposal Map can be found in the main (Planning) SOCG (**Core Document 7.11, Figure 1**).

Designations on the Site and in the Surrounding Area

- 3.6 The site comprises several agricultural fields of limited ecological importance and is divided by hedgerows and some trees. The site is not within any nationally or locally designated landscape.
- 3.7 The Appellant, having reviewed the (most up-to-date) agricultural land classification plans provided by Natural England (plans provided at **Appendix JR6**), is firmly of the view that all of the land is classified as Grade 4 agricultural land. However, despite having provided the source of our data (and explained why it provides the most up-to-date data source), the Council has not, to date, accepted this position and suggests that part of the site is also Grade 3 agricultural land. This matter is considered in more detail later in my evidence.

⁷ Please see paragraph 7.29 in the agreed overall (Planning) Statement of Common Ground (**Core Document 7.11**)

- 3.8 There are no existing public rights of way across the site, although the nearest PROW, reference LWR/25, lies (at various points) between approximately 60 to 85 metres to the north of the site (over land controlled by and owned by one of the existing landowners of the Site, and to which a new public footpath connection is proposed to be secured (by planning condition)). Existing PROW are provided at Figure 2 in the main SOCG (**Core Document 7.11**)
- 3.9 The site is wholly within Flood Zone 1, that with the least vulnerability to flooding. The site is broadly flat with a gentle slope down from south east to north west.
- 3.10 There are no designated heritage assets within the site. A Grade II* listed building (Frith Farm) is located circa 440m west of the site and the nearest listed building is a Grade II listed farmhouse (South Farm) 28m north of the site boundary (north of the northerly point of access from Sodbury Road). The southern edge of the Wickwar Conservation area is located circa 330m north of the site. A plan showing the relationship of the site to the identified listed buildings and conservation area can be found as **Plan RS1** to the proof of Evidence of Mr Skinner.

Planning History

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

4. The Council's Putative Reasons for Refusal and Matters to be Considered by My Evidence

The Council's Putative Reasons for Refusal

- 4.1 Whilst the appeal was lodged against the Council's failure to determine the planning application, the Council took a report to its Strategic Sites Delivery Committee on the 3 August 2023 in order to seek a resolution from the committee on how it would have determined the proposals.
- 4.2 The Officer's Report is provided at **Core Document 4.9** and recommended that permission should be granted with the report confirming that, if the recommendation were to be agreed, it would have been the intention of Officers to then write to the Planning Inspectorate and state that no evidence would be offered up to the public inquiry, although assistance on the S106 and conditions would still have been provided.
- 4.3 Despite the Officer's recommendation, the Strategic Sites Delivery Committee resolved that permission would instead have been refused for two reasons. The two reasons for refusal initially suggested by Members are helpfully set out at paragraph 1.6 of the Council's Statement of Case (SOC) (**Core Document 7.2**).
- 4.4 A further committee report was then taken to the Council's Spatial Planning Committee on 8th August 2023 (**Core Document 4.10**) for Members of that committee to decide if they agree with the recommendation of the Strategic Sites Delivery Committee. The Spatial Planning Committee also resolved that it would have refused planning permission for similar reasons as the Strategic Sites committee although, as is helpfully set out at paragraph 1.7 of the Council's SOC (**Core Document 7.2**), the weighting to some of the perceived adverse impacts and to the benefits were amended including:
- Less than substantial harm to South Farm- from moderate weight to great weight;
 - Less than substantial harm to Frith Farm – from limited weight to great weight; and
 - Provision of new jobs – from moderate weight to limited weight.
- 4.5 However, the Council's SOC also explains, at paragraph 1.8, that, in line with the Council's Scheme of Delegation⁸, the weighting of the Conflict with the Spatial Strategy has been changed from 'Significant weight' to 'Limited Weight' and the Harm to the Conservation Area has been altered from 'Harm to Wickwar Conservation Area – moderate weight' to 'Less than substantial harm to Wickwar Conservation Area – great weight'.

⁸ In line with legal advice from the council's barrister and in conjunction with core Committee Members and the Director of Place's approval

4.6 Paragraph 1.8 of the Council's Statement of Case also confirms that the ordering of the weighting for harms has been revised for ease to ensure the weighting is set out in descending order.

4.7 This results in the two following putative reasons for refusal:

"1) The adverse impacts of the proposal with regard to:

- *Less than substantial harm to South Farm – great weight*
- *Less than substantial harm to Frith Farm – great weight,*
- *Less than substantial harm to Wickwar Conservation Area – great weight,*
- *Increase reliance on car borne transport – substantial weight,*
- *Landscape Harm – significant weight*
- *Conflict with Spatial Strategy – limited weight*
- *Loss of Grade 3 agricultural land – limited weight*
- *Recreational pressure on SSSI – limited weight*

significantly and demonstrably outweigh the benefits of the proposal, which are:

- *Provision of housing – significant weight,*
- *Affordable housing – significant weight,*
- *Provision of self-build plots – significant weight,*
- *Provision of new jobs – limited weight,*
- *Other benefits (potential for a shop, redirected Public Right of Way, highway improvements and connections) – limited weight*

and therefore, applying paragraph 11(d)(ii) of the NPPF, permission should be refused.

2) The proposal development fails to provide and/or secure adequate provision for necessary on-site and off-site infrastructure. Such infrastructure shall include (but is not limited to) Affordable Housing; Public Transport; off-site highways works; Travel Plan measures; Education contributions to nursery, primary and secondary education and associated transport; Public Open Space; Community Infrastructure; A retail unit and Self-build/custom build homes. The proposal is therefore contrary to policy CS6 of the South Gloucestershire Core Strategy 2006-2027.

4.8 In respect of the Council's first putative reason for refusal, there has been positive dialogue between the parties and this has led to the Council now accepting that there is no harm to the special architectural or historic interests of the Wickwar Conservation Area⁹.

4.9 In respect of 'Increase reliance on car borne transport', the Appellant has sought to enter into further discussions on this matter and, in particular, the level of contribution that is appropriate to secure an enhanced and viable bus service for the Appeal Development (and for the village as a whole)¹⁰. Whilst there remains disagreement on the appropriate

⁹ Please see agreement within the Main SOCG and the Heritage SOCG

¹⁰ The Council's SOC (**Core Document 7.2**, paragraph 4.3 and 4.4) only refers to uncertainties in bus provision being the concern in relation to the Appeal Proposals being a car borne

level of bus service contribution to be secured through the S106, the S106 provides for either contribution to be secured based on the Inspector's consideration of the evidence i.e. the contribution suggested by the West of England Combined Authority (WECA) and the Council¹¹ in earlier consultation responses and that suggested by the Appellant¹² based on its bus modelling work.

- 4.10 Unfortunately, despite bus services being the only matter that the Council has raised as being in issue on this matter in consultation responses and in its SoC (please see footnote 8), the Council has been unwilling through SOCG discussions to agree that the S106 will secure (by securing whichever final contribution is found to be appropriate) an enhanced bus service that will improve the locational sustainability of the village of Wickwar. In my view, this really should have led to an agreement that this cited adverse impact can be suitably addressed by the S106, and so it is not clear what issues the Council intends to raise and whether it intends to raise additional matters not set out in its SoC. Evidence on this matter is therefore provided both within my proof of evidence, and in the transport specific evidence of Mr David Knight for the Appellant.
- 4.11 In respect of 'Recreational pressure on SSSI', whilst Natural England has confirmed that it has no objection in respect of the potential for recreation impacts to the Lower Woods SSSI, the Appellant has nevertheless sought to engage with the Wildlife Trust who manage the site to see if there are off-site management and mitigation measures that the Appellant could provide an appropriate financial contribution towards. A provision for this is included in the S106 and would, in the Appellant's view, secure a wider benefit of the proposals. However, the Council has not accepted, at this stage, that this contribution would address any remaining concerns it has on recreation pressure (citing a need for the Gloucestershire Wildlife Trust to confirm its agreement to the contribution) – that is despite the clear position of Natural England and the fact that the Council's own Ecological Officer¹³ raised no objection. Again, this should have been a matter capable of being agreed by the Council.
- 4.12 In respect of the Council's second putative reason for refusal, both parties have, in principle, agreed terms for appropriate s106 planning obligations and are working to finalise a s106 Agreement ahead of the Inquiry. The only matter of dispute on the S106 is the quantum of the financial contribution towards bus services (as discussed, above).
- 4.13 As such, aside from appropriate consideration at the Inquiry of the precise s106 provisions to be secured, the ability to satisfactorily address putative reason for refusal 2 should not be a matter between the two main parties. Nevertheless, I do refer to the provisions secured through the S106 because of number of those provisions secure important benefits that weigh in favour of the appeal proposals.

development if not secured, and the Transport Development Control Team response (22 June 2023, **Core Document 3.34**) confirms (in respect of its only concerns) that "*We therefore require the confirmation of a funding a new bus service to make the development acceptable in transport planning terms*".

¹¹ £450,000 per annum for 5 years (£2,250,000 in total) - **Core Document 3.34**

¹² £50,000 per annum for 5 years (£250,000 in total) plus £150,000 towards travel plan interventions along the bus route, based on bus modelling work (**Core Document 7.4**)

¹³ **Core Document 3.5**

Matters to be Considered by My Evidence

- 4.14 Importantly, and as is confirmed in the above putative reason for refusal 1, there is agreement at this appeal that the tilted balance at paragraph 11 d ii) applies. This is regardless of the position on housing land supply (although I do present evidence on that matter).
- 4.15 The tilted balance applies because it is acknowledged by the Council that its CS is out of date – this is confirmed in the Council’s Statement of Case at paragraph 1.12 and is a matter agreed in the main SOCG at (**Core Document 7.11**).
- 4.16 In the light of the above, my planning evidence focuses on the adverse impacts alleged by the Council (as set out in the reason for refusal) and the weight to be given to them, when considered against the benefits of the proposal and the weight to be given to those. The benefits include those listed by the Council as well as additional benefits from the Appeals Proposals which I consider should be taken into consideration when determining this Appeal.
- 4.17 Flowing from this, my evidence will consider the Council’s overall conclusion that the adverse impacts significantly and demonstrably outweigh the benefits from the proposals, which I do not consider can be substantiated at this Appeal.
- 4.18 In considering these matters, I draw on the evidence of the witnesses listed at paragraph 1.2 of this proof on evidence and the additional Statements and letters appended to this evidence, listed at paragraph 1.3.
- 4.19 Finally, my evidence considers any additional matters raised by third parties, including additional matters raised by the Parish Council and any other matters raised by local residents.

5. Relevant Planning Policy Framework

Introduction

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 5.2 I provide a summary below of the Development Plan position in South Gloucestershire and key policies from the Development Plan of relevance to this appeal.
- 5.3 I do note that the Council's putative reason for refusal does not actually list any Development Plan Policies which the Appeal Proposals are alleged to conflict with, however, the reason for refusal does allege conflict with the spatial strategy and also alleges a number of harms, on which there are policies in the Development Plan, and so which I consider. I then provide a summary of other material considerations, including the NPPF and its supporting Planning Practice Guidance (PPG).

The Development Plan

- 5.4 The Development Plan for South Gloucestershire relevant to the Appeal Site currently comprises:
- The South Gloucestershire Core Strategy (2006-2027) (**Core Document 4.4**); and
 - The South Gloucestershire Policies, Sites and Places Plan (**Core Document 4.5**).

The South Gloucestershire Core Strategy 2006-2027, adopted December 2013

- 5.5 The South Gloucestershire Core Strategy (CS) 2006-2027 was adopted on 11 December 2013.
- 5.6 The CS sets out the general location for development, its type and scale, as well as various other strategic policies to protect the physical and environmental assets of the area.
- 5.7 The relevant CS policies for the determination of the Appeal are listed in section 6 of the main SOCG (**Core Document 7.11**).
- 5.8 However, the CS was adopted on the basis of a Strategic Housing Market Assessment (SHMA) that is not in compliance with the NPPF and so the Examining Inspector only found the CS Sound on the basis that a review of the Plan would be completed by 2018.
- 5.9 That review has not progressed and so, some 5 years since a review of the CS should have been completed, there is still no new Plan in place, and the Council still remains many years away from doing so - I consider the timetable for the Council's new Local Plan, below. I also consider the implications of the Council's failure to progress a Review, later in my evidence.

- 5.10 Importantly, there is common ground at this Appeal that the housing requirement in the CS and the settlement boundaries that depend on it, are not compliant with the NPPF and are out-of-date. This is regardless of the five-year housing land supply position (although I do consider this in more detail as it remains an important material consideration).
- 5.11 The issue of whether the plan should be considered out of date was a matter considered and concluded on in other appeals¹⁴ in South Gloucestershire and is a point that is further covered in detail in subsequent sections of my evidence. It is also a matter of agreed common ground between the Appellant and SGC (see paragraph 1.12 of the Council's SoC and in the main (planning) SOCG (**Core Document 7.11**)).
- 5.12 The Most Important policies for determination of the Appeal¹⁵ have also been agreed in the Statement of Common Ground (in Section 6) and there is agreement that any identified conflict with the Council's spatial strategy should be afforded limited weight – this is firstly agreed by reference to the Council's first putative reason for refusal (where the council confirms that it has afforded limited weight to the conflict with the Council's spatial strategy), but also in the main (planning) SOCG (**Core Document 7.11**) at paragraph 7.5.
- 5.13 Notwithstanding the above, the CS remains part of the adopted Development Plan for South Gloucestershire and the Development Plan remains the starting point for the determination of the application. In that respect, whilst (at Section 7 to my evidence, below) I set out where conflicts with the spatial strategy occur, as well as where I consider the proposals would meet/accord with the Council's Development Policies (which then form part of the overall planning balance that I reach), given the agreement to the weight to be afforded (limited weight), I do not consider the need to address those areas of conflict in detail.

Policies Sites and Places Plan, November 2017

- 5.14 The Policies, Sites and Places Plan (PSPP), adopted 8 November 2017, replaces the remaining saved policies of the South Gloucestershire Local Plan 2006 and supplements the adopted CS by dealing with a range of more detailed Development Management matters.
- 5.15 Again, whilst there are no PSPP policies listed in the Council putative reason for refusal, the relevant PSPP policies for the determination of the Appeal are confirmed in Section 6 of the main SOCG (**Core Document 7.11**) and, where relevant to the alleged harms the Council cites, I consider the Appeal Scheme's accordance with them in Section 7, below.

Material Considerations

The National Planning Policy Framework (NPPF)

- 5.16 The latest revised National Planning Policy Framework (NPPF) was published in September 2023. The NPPF sets out the Government's planning policies for England and

¹⁴ Ref. 3303905 (**Core Document 5.2**) and Ref. 3288019 (**Core Document 5.1**)

¹⁵ Relevant to Paragraph 11 d of the NPPF

how these are expected to be applied. Planning Practice Guidance (PPG) provides context and explanation to the NPPF. Both are material considerations in the determination of planning applications and appeals.

- 5.17 The individual technical and environmental reports provide specific reference to national policy relevant to each specific discipline and a summary of the main relevant parts of the Framework is provided below.
- 5.18 The Government has made clear its expectation, through the Framework, that the planning system should positively embrace sustainable development to deliver the economic growth necessary and the housing needed to create inclusive and mixed communities. Local planning authorities are encouraged in the Framework to approach decisions on proposed development in a positive and creative way, and should seek to approve applications for sustainable development where possible (**Paragraph 38**).
- 5.19 **Paragraph 11** guides how decision-making should apply a presumption in favour of sustainable development, approving development proposals that accord with an up-to-date development plan without delay.
- 5.20 Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, paragraph 11 confirms that permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 5.21 **Paragraph 33** states that policies in local plans should be reviewed to assess whether they need updating at least once every five years. Reviews should be completed no later than five years from the adoption date of the plan.
- 5.22 **Paragraph 38** states that Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 5.23 **Paragraph 60** seeks to ensure the Government's objective of significantly boosting the supply of homes is realised.
- 5.24 **Paragraph 69** confirms that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.
- 5.25 **Paragraph 74** of the NPPF states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' of housing against the housing requirement in adopted strategic policy or the local housing need where the strategic policy is more than five years old.

- 5.26 **Paragraph 81** sets out that significant weight should be given to the need to support economic growth and productivity, considering local business needs and wider opportunities for development.
- 5.27 **Paragraph 119** guides how planning policies and decisions should promote effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 5.28 **Paragraph 126** guides how good design is a key element of sustainable development, creates better places to live and work, and helps make development acceptable to communities.
- 5.29 In accordance with **paragraph 134**, significant weight should be given to development which reflects local design policies and government guidance on design. Furthermore local planning authorities should seek to ensure the quality of approved development is not diminished between permission and completion as a result of changes to the approved scheme (**paragraph 135**).
- 5.30 **Paragraph 180** sets out that when determining planning applications, development which is likely to have an adverse effect on a SSSI should not normally be permitted. Paragraph 180 also sets out that development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 5.31 **Paragraphs 189-208** set out the approach to conserving an enhancing the historic environment. In particular, **paragraph 202** explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There is no greater harm than 'less than substantial' alleged in this case and, even on the Council's own case, it is at the lower end of that 'less than substantial' scale.

Planning Practice Guidance (PPG)

- 5.32 The PPG was first published in March 2014. It is a material consideration to this appeal, which will be referred to where relevant in my evidence.
- 5.33 Significantly, the PPG reinforces the importance of the NPPF as representing the most up-to-date Government planning policy, which must be taken into account where it is relevant to a planning decision (Reference ID: 21b-006-20140306). Importantly, the PPG states that if decision takers choose not to follow the NPPF, clear and convincing reasons for doing so are needed (Reference ID: 21b-010-20140306).

Local Plan Review

- 5.34 Whilst it is common ground in this case that the CS is out of date (having been adopted nearly 10 years ago, in 2013), the Local Plan Review remains as a very early stage.

- 5.35 This is partly due there previously being an emerging Joint Spatial Plan (JSP) for the West of England (a combined spatial plan between South Gloucestershire Council, Bristol City Council, Bath and North East Somerset Council and North Somerset Council) which, although it reached examination stage, was subsequently withdrawn in April 2020 as a result of the Inspectors undertaking the examination concluding that there were fundamental issues of soundness.
- 5.36 There were then attempts to progress with a Joint Spatial Development Strategy (SDS), a strategy to be agreed between South Gloucestershire Council, Bristol City Council and Bath and North East Somerset Council but, again, that plan has failed to progress. Work on the SDS was halted after Metro Mayor Dan Norris wrote to the Department for Levelling Up, Housing and Communities to explain that he has asked officers to stop work as unanimous agreement on the plan by the Councils had not been reached – this included an inability of the authorities to reach any consensus on housing need and delivery (including how to deal with Bristol’s unmet needs).
- 5.37 SGC is, therefore progressing its own Local Plan, but that plan remains at a very early stage. The latest Local Plan Delivery Programme 2022-2025 (**Core Document 4.34**) was published in April 2023. That Delivery programme suggests that a Regulation 18 Plan consultation may process before the end of October this year, with a Regulation 19 Plan in May 2024. The overall adoption of the plan is suggested to be in July 2025.
- 5.38 As such, there is no emerging plan that can be afforded any weight at this Appeal.
- 5.39 Indeed, the failure of South Gloucestershire, with its neighbouring authorities, to progress forward with joint plan making has, in my view, helped to drive under-delivery issues in the area. That is material consideration for the Inspector at this Appeal. I consider this in more detail under the housing delivery and five year housing land supply section of section 6 of my evidence, below.

NPPF Consultation

- 5.40 At the time of writing, potential changes to the NPPF have been consulted on. The consultation on those changes closed on 2nd March 2023. The responses to the consultation will now need to be considered by the Government.
- 5.41 We do not know when, or indeed if, any updated NPPF will be published (and the September updated NPPF was not the overall updated NPPF that the Government has suggested) or what any final amended NPPF may include.
- 5.42 At the current time, it should be afforded no weight in my view.
- 5.43 The September revision to the NPPF does not in any way changes to NPPF policy provisions of relevance to the consideration of this Appeal.

6. The National Planning Policy Framework and the Presumption in Favour of Sustainable Development

6.1 As considered in the policy section, above, an important material consideration for this Appeal is the NPPF (2023) and particularly the presumption in favour of sustainable development set out at paragraph 11.

6.2 Paragraph 11 d) of the NPPF sets out, under decision making, that where there are no relevant development plan policies or the policies which are the most important for determining the application are out of date, planning permission should be granted unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

6.3 Footnote 8 to paragraph 11 of the NPPF confirms that the policies that are the most important for determining the application are out of date where the local planning authority is unable to demonstrate a sufficient housing land supply as required by paragraph 74 of the NPF. However, that is not the only circumstance under which the development plan can be found to be out of date.

6.4 There have been numerous cases where the Courts have considered the correct interpretation of the term “out-of-date” in paragraph 11d of the NPPF, the most recent of which I summarise below.

6.5 In *Peel Investments (North) Ltd v Secretary of State for Housing, Communities & Local Government* [2020] EWCA Civ 1175 (**Core Document 5.3**), the Court of Appeal confirmed that whether a relevant local policy is out-of-date are matters of planning judgement. The Court, at paragraph 66 of the judgement, confirmed that policies can be considered as being out-of-date if they have been:

“... overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date”.

6.6 The presumption in favour of sustainable development at paragraph 11 d) is triggered for two reasons in this case, in my view:

1. The CS is out of date as it is not compliant with the NPPF – this is matter of agreement with the Council; and
2. The Council is unable to demonstrate a sufficient housing land supply as required by NPPF paragraph 74.

6.7 I consider these matters in more detail below.

The Core Strategy is Not Compliant with the NPPF and is Out of Date

6.8 There is already agreement between the Council and the Appellant on the first trigger of the presumption, set out above. This is confirmed in the Council's SOC at paragraph 1.12 and is a matter agreed in the main Statement of Common Ground.

6.9 The CS was adopted in December 2013. The housing requirement on which the spatial strategy is based is reliant on SHMA that pre-dated the NPPF. It therefore had no regard to the duty to co-operate or to consider the needs of the wider Housing Market Area (HMA). Although the Examining Inspector found the CS sound, this was on the basis that an early review would be undertaken based on a Framework-compliant SHMA.

6.10 The Core strategy Examiners Report (**Core Document 4.17**) raised the importance of an early review of the CS. At paragraph 84 ad 85 of the Inspector's Report, the following was concluded:

"Without a NPPF compliant SHMA the degree of reliance that can be placed upon this figure is uncertain because it is not clear what the housing needs of the wider HMA are and whether joint working between the relevant authorities would require revisions to housing targets before the end of the plan period. There is, however, a reasonable expectation that any deficiencies in the information base will be identified through the findings of a new SMHA which can be taken into account in the review... In these circumstances it would not be justified to delay this plan until the new SHMA is completed. Subject to the Council undertaking an early review I am satisfied that the proposals in the CS (as modified by MM15) provide a `basis for taking the Plan forwards."

6.11 The CS Examination Inspector then went on at paragraph 86 and 87 to state that,

"I therefore consider South Gloucestershire should aim to adopt a replacement plan as soon as reasonably possible. I previously felt this should be done prior to 2021 but the timetable for the newly instigated SHMA process means this can and should be brought forward so that a review/replacement plan is in place by the end of 2018...The outcome of the SHMA process also provides an opportunity for the Council to work with the other West of England Unitary Authorities in identifying future needs and pursuing complementary strategies capable of delivering and supporting economic and social growth across the sub-region. While the authorities are at different stages in plan-making and plan review activities I do not consider this invalidates such an approach, particularly as each authority will have to have regard to the Duty to Cooperate".

6.12 Since the examination (which highlighted the importance of cross boundary working), no updated SHMA has been produced for the HMA as the relevant local authorities have been unable to agree a joint approach.

6.13 There have been repeated failures in the Region to bring forward any plan to provide an appropriate strategy for the delivery of homes in the area. As discussed earlier in my evidence, there was initially an attempt to bring forward a JSP for the West of England, but that plan was withdrawn in April 2020 as a result of the Inspectors undertaking the examination concluding that there were fundamental issues of soundness.

6.14 There were then attempts to progress with a SDS, but work on that Plan was halted after Metro Mayor Dan Norris wrote to the Department for Levelling Up, Housing and Communities to explain that work has ceased as unanimous agreement on the plan by the Councils had not been reached.

6.15 The housing requirement in the CS and the settlement boundaries that depend on it, are, therefore, not compliant with the Framework and are out-of-date. The policies which are the most important for determining the application in the adopted Development Plan are also out of date. These findings were confirmed recently in two appeal decisions in South Gloucestershire – the first in an appeal on land south of Badminton Road, Old Sodbury (appeal ref. 3303905 (**Core Document 5.2**)) and the second in an appeal on land to the west of Park Farm, Thornbury (appeal ref. 3288019 (**Core Document 5.1**)).

6.16 In the Old Sodbury appeal, paragraphs 8 and 9 of this decision sets out the following with respect to the current Development Plan situation in South Gloucestershire:

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

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

6.17 The Inspector goes on to find that the settlement boundary policies are not capable of meeting development needs and must therefore be considered out-of-date (paragraph 15).

6.18 In the Thornbury appeal, the Inspector also considers the evidence base to the Core Strategy noting, at paragraph 10, that:

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

6.19 This leads to the conclusion, at paragraph 10, that:

“In the circumstances, the housing requirement in the CS and the settlement boundaries that depend on it, is not compliant with the Framework and is out-of-date. This is regardless of the five year housing land supply position”.

- 6.20 The overall conclusion, at paragraph 169, was that the tilted balance is clearly engaged, this time for two reasons:

“The most important policies in the determination of this appeal are policies CS5, CS9, CS34 and PSP17. For the reasons I have given I consider that they are not consistent with national policy in the Framework and are therefore out-of-date. Even if that were not to be the case, the Council is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 11d) in the Framework is engaged.”

- 6.21 These conclusions all flow from the Council’s failure to proceed with a Review of the Plan, as found to be required by the CS Examination Inspector

- 6.22 Indeed, there is clearly a substantial policy vacuum in South Gloucestershire, with the CS only planning for housing need on the basis of a SHMA that was not NPPF compliant, and which did not consider wider housing needs across the West of England. No Review has materialised, and the CS adoption was predicated on the Review having been completed by 2018. The CS clearly does not provide an up-to-date or effective plan for the delivery of housing needs in South Gloucestershire, let alone consider any wider housing needs that the Council may need to meet.

- 6.23 Indeed, as the Thornbury Inspector concluded, at paragraph 11 of his decision (**Core Document 5.1**), that:

“Unfortunately, no updated SHMA has been produced for the HMA as the relevant local authorities have been unable to agree a joint approach. The latest attempt was through the Spatial Development Strategy but work on this document has recently been halted. This means that South Gloucestershire will need to produce its own plan whilst co-operating with its neighbours on the issue of housing needs within the HMA. Any assessment of housing needs will be a matter to be considered in due course through the Local Plan examination process. However, even though the duty to co-operate is not a duty to agree, it is not unreasonable to surmise that South Gloucestershire will play its part in helping meet the wider needs of the HMA, albeit that the extent that it will do so is at present unknown.”

- 6.24 The CS is, therefore, is clearly wholly ineffective as a policy tool for meeting current and future housing needs.

- 6.25 For the reasons set out above, the tilted balance is triggered in this case as the CS is not consistent with the NPPF – this is a position the Council accepts. This is regardless of the housing land supply position.

- 6.26 Nevertheless, I consider the Council’s ability to demonstrate a sufficient housing land supply, below.

Housing Delivery to Date and the Council's Ability to Demonstrate a Sufficient Five Year Housing Land Supply

- 6.27 Notwithstanding the agreement that the CS is out of date with the application of the presumption in favour of sustainable development being triggered as a result), the tilted balance would also be triggered by the absence of a sufficient housing land supply in South Gloucestershire, in my view.
- 6.28 A consideration of the Council's housing delivery record to date and its ability to demonstrate a sufficient five housing land supply in accordance with paragraph 74 of the NPPF also remains an important material consideration for this Appeal, notwithstanding the fact that the tilted balance is engaged in any event (as is considered above).
- 6.29 In order to consider the Council's ability to demonstrate a sufficient housing land supply in accordance with paragraph 74 of the NPPF, I have prepared a separate proof of evidence on housing delivery to date, and on the Council's five year housing land supply.
- 6.30 I provide a summary of the findings of that evidence and consider the implications for the determination of this Appeal.

The Council's Delivery to Date

- 6.31 My separate proof of evidence on housing delivery and five year housing land supply shows that there has been a cumulative under-delivery in South Gloucestershire since the start of the plan period to the 1st April 2022 base date of **2,737 homes**. This is a very substantial shortfall in delivery against the Council's CS housing requirement and is an important material consideration for the determination of the Appeal, regardless of the position on the Council's five year housing land supply.
- 6.32 Furthermore, my evidence also shows that, using the Council's own figures on predicted deliverable supply in the next 5 years (which takes us to 2027, the end of the final year of the CS plan period), the cumulative under-delivery against the minimum housing requirement in the Plan will still be **1,819 homes**. I have sought to agree this figure with the Council in the emerging SOCG on housing delivery and five year housing land supply, however, the Council has indicated that the completion of this SOCG may not be possible until after exchange of evidence – nevertheless, the figures I have set out are based on the Council's own data, are factual and so should be capable of agreement.
- 6.33 What this shows is that, even if the Council's predicted delivery is achieved, there will remain a very significant shortfall at the end of the plan period. This demonstrates that the Council's housing strategy, even on its own claimed delivery figures, will fail over the plan period with substantially fewer homes being delivered compared to the minimum requirement – a requirement that should not be forgotten, is not NPPF compliant and takes no consideration of wider needs in the housing market area. This is, again, an important material consideration notwithstanding the five year housing land supply position.
- 6.34 Indeed, the failure of South Gloucestershire, with its neighbouring authorities, to progress forward with joint plan making has, in my view, driven under-delivery issues in

the area; resulted in a lack of any action plan on how to address shortfalls in delivery that have accrued to date, and will accrue in the plan period as a whole; and provides no strategy on how to meet current and future housing needs in the authority and across the wider housing market area.

The Council's Five Year Housing Land Supply

- 6.35 The Council's latest five year housing land supply position (**Core Document 4.11**) claims a deliverable supply in the five year period of 7,673 homes against a requirement of 7,170 homes, a requirement which is based on a standard method derived Local Housing Need (LHN) and using a 5% buffer. This equates to a claimed supply of **5.35 years** (a **surplus of 503 homes**).
- 6.36 However, having considered the sites and sources of supply that the Council includes in the housing land supply, my evidence concludes that several sites which should not be included in the Council's deliverable supply (when considered against the NPPF definition of 'deliverable') or where other reductions in supply should be made. Based on the **deduction of 1,311 homes** from the Council's supply that I say is appropriate in this case, the Council is only able to demonstrate a **4.44 year supply**, a **shortfall of 810 homes**.
- 6.37 The Council's inability to demonstrate a sufficient five year housing land supply in accordance with paragraph 74 of the NPPF would also lead to the presumption in favour of sustainable development at paragraph 11 of the NPPF being triggered (on top of the presumption being triggered as a result of the CS not being compliant with the NPPF and out of date in any event). It is also a position that adds further weight to the benefit of the delivery of homes from the Appeal Site.

The Implications of the Core Strategy Being Out of Date and the Consequences of an Absence of a Sufficient Five-Year Housing Land Supply

- 6.38 Whilst there is a dispute between the Council and the Appellant on the ability to demonstrate a sufficient housing land supply in South Gloucestershire, given the agreement between the two parties at this Appeal that the CS is out of date in any event and that the tilted balance applies, the implications of not being able to demonstrate a sufficient housing land supply does not change the overall approach to decision making in this case.
- 6.39 Nevertheless, the significant level of under-delivery in the plan period to date and predicted under-delivery in the plan period as a whole (representing a failure of the Council's spatial strategy), as well as my evidence that the Council is unable to demonstrate a sufficient five year housing land supply, are all important material considerations that supports the significant weight to be given to the delivery of homes on the Appeal Site.
- 6.40 Given that there is agreement in this case that the CS is out of date and that the Appeal should be considered against the tilted balanced at paragraph 11d) of the NPPF, this means that planning permission to be granted, unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Are there any Policies in the Framework that Protect Areas or Assets of Particular Importance that Provides a Clear Reason for Refusing the Development Proposed

- 6.41 Given that policies relating to designated heritage assets is listed at Footnote 7, I accept that there is a requirement for the Inspector to consider paragraph 202 of the NPPF and determine, firstly, what the overall level of heritage harm is in this case (noting that the level of harm (as being at the lower end of less than substantial) is agreed in respect of South Farm, but disputed in respect of the level of and Frith Farm (albeit still considered to be less than substantial harm in the Council's case, and considered to result in no harm by the Appellant)¹⁶.
- 6.42 Having assessed the level of harm, it will then be necessary to consider whether the public benefits outweigh that heritage harm. I will set out the public benefits in greater detail later in my evidence but, in short, the public benefits are substantial in this case and include:
1. The delivery of market homes.
 2. The delivery of affordable homes.
 3. The delivery of self-build/custom homes.
 4. Economic benefits from construction and from the new residents of the development.
 5. The provision of land for a new shop (and appropriate S106 mechanisms to secure the shop's delivery).
 6. The provision of a significant level of public open space (including a local equipped play area (LEAP)), in excess of policy requirements.
 7. The provision of allotments and community orchards.
 8. The provision of new links to the public rights of way network, as supported by NPPF paragraph 100.
 9. The delivery of biodiversity net gain beyond policy requirements¹⁷.

¹⁶ Despite the Council's first putative reason for refusal, the Council now accepts that there is no harm to the special architectural and historic interest of the Wickwar Conservation Area.

¹⁷ With the BNG assessment (at **Core Document 2.10**) confirming a 35% BNG is expected and the updated BNG calculation (at **Appendix JR4** to this evidence) showing that this increasing to 55% based on the updated Illustrative Framework Masterplan (**Core Document 6.2**)

10. The provision of financial contributions to secure a viable bus service that will serve the village as a whole and increase the locational sustainability of the village of a whole; and
 11. The provision of financial contributions to secure management measures to mitigate any potential for there to be recreational impact to the Lower Wood SSSI (despite there being no objection on this matter from Natural England, given the on-site measures proposed).
- 6.43 As such, whilst there is some disagreement on the level of heritage harm to Frith Farm (and this is dealt with in the evidence of Mr Rob Skinner of EDP for the Appellant), there is no suggestion by the Council (through its citing of heritage harm in the putative reason for refusal) that the harm would be any more than a less than substantial harm, or that this would be a harm that represents a clear reason in itself for dismissing the Appeal.
- 6.44 The public benefits would, in my view, clearly outweigh any less than substantial harm (whether that is to a single asset or to the two assets cited by the Council). As a result, the consequences in respect of the application of paragraph 11 of the NPPF are the same i.e. that the application of heritage policies do not provide a reason for refusing the development proposed.
- 6.45 There are no other specific policies in the Framework¹⁸ that indicate the development should be restricted. The Council applies the tilted balance in this case within its putative reason for refusal and so, whilst there is agreed to be some heritage harm in this case, there is no suggestion that the Council finds there to be any specific policies in the Framework, or the Development Plan (when considering Policy CS4A), that indicate the development should be restricted, and this is a matter that has been agreed with the Council in the overall (planning) SOCG (please see **Core Document 7.11**). As such, the Appeal should be allowed, and planning permission granted unless any adverse impacts would significantly and demonstrably outweigh the benefits.
- 6.46 With this in mind, I now turn to assess the overall planning merits of the Appeal Proposals, starting with the Scheme's accordance with the adopted Development Plan.

¹⁸ As set out in footnote 7 of the NPPF

7. Accordance with the Development Plan

- 7.1 As required by Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for my assessment must be the relevant policies as set out in the Development Plan.
- 7.2 As such, I start, below, with my assessment of the Appeal Scheme's accordance with relevant policies contained in the Development Plan. However, aside from reference to Core Strategy Policy CS6 in the Council's second reason for refusal, there are no other Development Plan Policies listed in the Council's putative reasons for refusal and I expect that second reason for refusal to be resolved through the completion of the S106 Agreement.
- 7.3 The first putative reason for refusal does make reference to conflict with the Council's spatial strategy, but the Council afford this only limited weight (no doubt because there is agreement in this case that the Development Plan is out of date). There are also other alleged adverse impacts to landscape, heritage, agricultural land (through its loss) and ecology (through recreational impacts to the Lower Woods SSSI) on which there are Development Plan policies.
- 7.4 As such, whilst no policies are specifically cited in the Council's first putative reason for refusal, given the Development Plan remains the starting point for the determination of the Appeal, I consider the Appeal Scheme's accordance with the Development Plan before I then turn to consider other material planning considerations.

The Principle of Development: Accordance with Core Strategy Policies CS15, CS5, CS34 and CS4A

Accordance with Policy CS15 'Distribution of Housing'

- 7.5 Policy CS15 sets out how, over the plan period, the Council aims to secure the delivery of a minimum of 28,355 new homes. The strategy is to deliver this need within existing urban areas and at the growth locations identified in the table within the policy. The locations for development listed in the Policy do not include Wickwar, and there is cross reference to the homes coming forward in accordance with the location of housing set out in Policy CS5 (which is considered below).
- 7.6 Policy CS15 does not set a cap on the number of new homes. The quantum required for the authority area as a whole, and that for the 'Rest of South Glos' area within which Wickwar falls, are not expressed as a maximum.
- 7.7 The development will deliver both market and affordable homes and will contribute towards the housing needs of South Gloucestershire as a whole – and my separate proof of evidence on housing delivery and five year housing land supply shows that the Council has fallen significantly short of meeting those needs to date and will fall short of meeting those needs over the next five years and across the plan period as a whole.
- 7.8 The proposed development assists with the delivery of the housing requirement and in this respect the appeal proposals would accord with this element of Policy CS15.

- 7.9 Through discussions with the Council, Policy CS15 was not considered to be one of the most important policies for the determination of the Appeal. This is due to the fact that, whilst not listed as one of the specific locations in the policy, the Appeal Site will contribute to achieving the overall minimum level of housing growth.

Accordance with Policy CS5 'Location of Development'

- 7.10 Policy CS5 sets out the Strategy for Development and states that new development within the open countryside will be strictly limited.
- 7.11 It is acknowledged that the proposals conflict with this policy by virtue of the site's location outside of the settlement boundary.
- 7.12 The Appeal Site lies to the west of existing built form, mainly residential properties, along Sodbury Road. Although the current defined settlement only adjoins part of the site (where the northern access is proposed), the actual built-up area of the settlement extends southwards along this road, and when the consented scheme to the east of Sodbury Road is completed (as permitted under application reference PK17/4552/O and P19/5258/RM) the built form of the village to the east of Sodbury Road will extend as far south as the southern end of the application site. These schemes have been annotated or illustrated on the Illustrative Framework Masterplan (**Core Document 6.2**) and other Illustrate Plans (**Core Document 6.12**).
- 7.13 Importantly, the settlement boundaries within South Gloucestershire have not been reviewed since the CS adoption, which was nearly 10 years ago, and there is agreement that they are out of date.
- 7.14 Nevertheless, the Appeal Site remains outside of the settlement boundary for Wickwar and so I accept that it conflicts with Policy CS5. However, there is agreement with the Council that:
1. The CS is out of date.
 2. Policy CS5 is one of the most important policies for the determination of this Appeal.
 3. The conflict with the Council's spatial strategy should be afforded only limited weight; and
 4. The presumption in favour of sustainable development applies in this case and so this conflict, whilst acknowledge to be an adverse impact, will need to be weighed in the overall (tilted) balance.

Accordance with Policy CS34 'Rural Areas'

- 7.15 Policy CS34 seeks, among other points, to maintain the settlement boundaries defined on the Policies Map around rural settlements (including Wickwar) until they are reviewed either through Neighbourhood Plans, the Policies, Sites and Places Plan (PSPP) or a subsequent new Local Plan. There is no neighbourhood plan for Wickwar and, whilst the PSPP is now adopted, it did not review any settlement boundaries.

- 7.16 Similar to Policy CS5, it is acknowledged that the Appeal Site is outside of the defined settlement boundary for Wickwar where the plan limits the type of development that is permissible. It is accepted that the Appeal Site is, therefore, in conflict with Policy CS34.
- 7.17 Similar to my assessment of Policy CS5, above, there is agreement with the Council in this case that Policy CS34 is one of the most important policies and so, the conflict that is identified should be afforded only limited weight.
- 7.18 There are also other criteria to Policy CS34 that (relevant to the alleged harms cited by the Council) require development proposals to:
- Protect, conserve and enhance the rural areas' distinctive character, beauty, wildlife, landscape, biodiversity and heritage.
 - Protect the best and most versatile agricultural land and opportunities for local food production and cultivation to provide for nearby urban areas and settlements; and
 - Protect the unique and valuable setting provided by the rural areas to the urban areas and other settlements in South Gloucestershire, which contributes to the district's distinctive sense of place and identity.
- 7.19 These are all matters that I consider under specific sections on the alleged harms of the development later in my evidence.

Accordance with Policy CS4A

- 7.20 This policy seeks to reflect the presumption in favour of sustainable development as now set out at paragraph 11 of the NPPF. It states that where relevant policies are out of date the Council will grant permission unless material considerations indicate otherwise unless:
- 1. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework and other policies in the Council's Local Plan, neighbourhood development plans, supporting supplementary planning documents and any emerging policy as it may be relevant.*
- 2. Specific policies in the National Planning Policy Framework, other policies in the Council's Local Plan, neighbourhood development plans, supporting supplementary planning documents and any emerging policy as it may be relevant, indicate that development should be restricted.*
- 7.21 This is a case where both parties agree that the CS is out of date and so it must follow that the provisions within Policy CS4A apply.
- 7.22 Whilst Policy CS4A largely repeats the presumption in favour of sustainable development at paragraph 11 of the NPPF, its inclusion in the Development Plan gives it statutory status in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004.

- 7.23 The Council applies the tilted balance in this case within its putative reason for refusal and so, whilst there is agreed to be some heritage harm in this case, there is no suggestion that either party finds there to be any specific policies in the Framework, or the Development Plan, that indicate the development should be restricted.
- 7.24 On this basis, one then needs to determine if the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Those adverse effects would rightly include any adverse effects as a result of any conflict (and harm arising from that conflict) identified with other policies in the Local Plan (including the conflict I have identified with Policies CS5 and CS34 above, as well as any other conflicts that may be identified.
- 7.25 If having undertaken that exercise, the decision maker concludes the adverse impacts do not significantly and demonstrably outweigh the benefits, then the Appeal Proposals should be found to accord with Policy CS4A and therefore with the Development Plan as a whole. Paragraph 11 of the NPPF requires such development proposals to be approved, without delay.
- 7.26 I undertake that overall planning balance, and return to Policy CS34, later in my evidence.

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

- 7.27 The Council does not cite either Policy CS9 or Policy PSP2 in its reason for refusal, but does include reference to landscape harm as an adverse impact and affords that harm significant weight.
- 7.28 Policy CS9 has many provisions, including criterion which seek to protect the landscape, heritage, biodiversity and best and most versatile agricultural land. I deal with landscape elements here.
- 7.29 In respect of landscape effects, CS Policy CS9 states that new development will be expected to conserve and enhance the natural environment and conserve and enhance the character, quality, distinctiveness and amenity of the landscape.
- 7.30 With regards to the expectation of Policy CS9 to ‘conserve and enhance’, this provides a greater level of protection to the natural environment than the NPPF, through paragraph 174.
- 7.31 Paragraph 174 of the NPPF requires the protection and enhancement of ‘valued landscapes’ but, beyond that, requires policies and decisions to recognise the intrinsic character and beauty of the countryside.
- 7.32 Indeed, Policy CS9 would appear to be a nil harm policy which any development on a greenfield site would find extremely difficult to accord with – that is contrary to the NPPF which provides different forms of policy protection and requirements to different types and values of landscape.

- 7.33 Policy PSP2 states that development proposals will be acceptable where they conserve and where appropriate enhance the quality, amenity, distinctiveness and special character of the landscape (defined by the Landscape Character Assessment). However, unlike policy CS9, there is provision in Policy PSP2 for proposals to still be found acceptable where development proposals would result in harm to the landscape, providing that:
- the proposal results in benefits that outweigh the harm; and
 - any harm to the landscape is minimised and mitigated through the form of the development and where reasonable the provision of landscape enhancements.
- 7.34 At application stage, a detailed LVA accompanied the planning application (**Core Document 1.11**). A Landscape Addendum was also submitted which reflected the updated scheme details (as of February 2023, **Core Document 2.7**) and responds to comments made by the Council's Landscape Officer (**Core Document 3.1**), and the Design Review Panel (**Core Document 3.3**).
- 7.35 Evidence on landscape impacts is now provided by Mr Will Gardner of EDP for the Appellant.
- 7.36 Mr Gardener confirms that the Appeal Site and its surrounding area is not a 'designated landscape' and the Council also do not seek to argue that the site is not a 'Valued Landscape' for the purposes of paragraph 174(a) of the NPPF.
- 7.37 Mr Gardner's evidence acknowledges that there are inevitable landscape impacts from the Appeal Proposals. There will be some harm to openness and rural character and, as a result, that would inevitably lead to a conflict with Policy CS9. However, Mr Gardner confirms that this is an inevitable consequence of the development of a green field site. Mr Gardner's evidence also concludes that there will be localised and limited harm to visual receptors, although such receptors already experience the settlement edge of Wickwar.
- 7.38 Mr Gardner's evidence also finds that there are no specific views (rather than general visual amenity) valued highly by the general public or essential to the appreciation of the area, that would be harmed to more than a limited degree by the Appeal Proposals. Whilst the development would evidently impact openness at the site level, that is the extent of landscape harm.
- 7.39 In the context of the requirements of paragraph 174b of the NPPF, Mr Gardner confirms that the Appellant has sought to integrate the Appeal Proposals with the surrounding landscape and evolving settlement pattern and structure through careful design and embedded mitigation measures such as the careful selection of field parcels, sympathetic location and development parameters, retention of structural landscape features and the inclusion of buffers.
- 7.40 The Appellant has also incorporated additional mitigation measures during the planning application process. Further to the receipt of the Council's Statement of Case, the updated Illustrative Framework masterplan (**Core Document 6.2**) has shown how further measures could be taken to include additional planting in the southern part of the

Appeal Site to maximise all available opportunities for planting within the Site, and help to further alleviate any landscape or visual effects.

- 7.41 Overall, there is conflict with the landscape aspects of Policy CP9, however, as already set out, that conflict would appear to be an inevitable consequence of a greenfield development and, as a nil harm policy, it is not consistent with the NPPF. Furthermore, to the extent that this policy is an important determinant in this Appeal, I note that the Inspector in the recent Thornbury appeal found this to be a most important policy for the determination of that appeal¹⁹.
- 7.42 Policy PSP2 is more nuanced and, whilst there is some acknowledged harm, the policy allows development to come forward where the benefits of the proposals outweigh the harm and where harm is minimised and mitigated through the form of the development and where reasonable the provision of landscape enhancements. Mr Gardner confirms how appropriate design and mitigation measures have been taken in this case, and so the Appeal Proposals are considered to accord with that requirement of PSP2. I deal with the wider public benefits of the Appeal Proposals later in my evidence, and I will show that those do outweigh the level of landscape harm that is identified in accordance with Policy PSP2.

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

- 7.43 As well as the landscape provisions of Policy CS9, the policy also provides the strategic level policy regarding heritage assets.
- 7.44 Again, Policy CS9 it has not been directly cited by the Council in its putative reason for refusal, although the following heritage harms are alleged:
- Less than substantial harm to South Farm – a Grade II Listed Building;
 - Less than substantial harm to Frith Farm – a Grade II* Listed Building; and
 - Less than substantial harm to Wickwar Conservation Area.
- 7.45 Since the receipt of the Council's SOC, it has now been agreed that there would be no harm to the special architecture or historic interest of Wickwar Conservation Area.
- 7.46 Policy CS9 states that in order to protect and manage the area's environment and resources development will be expected to ensure that heritage assets are conserved, respected and enhanced in a manner appropriate to their significance.
- 7.47 It is also worth noting that this policy is in effect a 'nil harm' policy, in that any development on any of greenfield land within the setting of a heritage asset would very likely fail to achieve the conservation or enhancement of the setting. In addition, this policy makes no provision for the consideration of public benefits, and so is inconsistent

¹⁹ Paragraph 169 of **Core Document 5.1**

with the NPPF, a conclusion that is consistent with the findings of the Inspector for the recent appeal at Thornbury (paragraph 46 of **Core Document 5.1**).

7.48 Policy PSP17 seeks to protect and, where possible, enhance or better reveal the significance of heritage assets and their settings. They should be conserved in a manner that is appropriate to their significance. With regard to listed buildings, and specifically for development within the setting of listed buildings, the policy states that development should preserve and, where appropriate, enhance those elements which contribute to their special architectural or historic interest, including their settings.

7.49 The Policy goes on to explain how development which affects heritage assets will be assessed, namely that they should meet the following criteria;

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

7.50 In respect of second criterion and the need to demonstrate that “*there is no other means of delivering similar public benefits through development of an alternative site*” the Inspector in the recent Thornbury appeal concluded that this is not a test that is in national policy, and is, therefore, not consistent with the NPPF (paragraph 46 of **Core Document 5.1**). The Inspector also concluded that PSP17 was one of the most important policies for the determination of that appeal (paragraph 169) and so that should be consistently applied here.

7.51 Mr Skinner provides evidence on heritage matters for the Appellant. He confirms that there are no designated heritage assets located within the site and so there would be no direct physical impact from the implementation of the proposed development in that respect.

7.52 Any effects on designated heritage assets would arise from changes within the wider setting of those assets in a way and to an extent which could give rise to a loss of or damage to their heritage significance.

7.53 It is Mr Skinner’s opinion that there would be only one asset on which the proposal would cause impact, the Grade II listed South Farmhouse, and that the impact on this asset, through a change to the setting, would be one at the very lower end of the scale of less than substantial harm. Whilst there would be some (inevitable) conflict with Policy CS9 in that the development would not conserve or enhance the setting of the asset, that harm should be considered in the context of the significance of the asset and the contribution that the site makes to the significance, which is in this case is an impact on a small part of the setting.

- 7.54 Overall, there is some conflict with the heritage policy requirements of both Policy CS9 and PSP17, however, both policies conflict with the NPPF and, as concluded in the recent Thornbury decision (**Core Document 5.1**), any conflict with the policies must, therefore, be afforded less weight in the planning balance.

Ecological Effects – Accordance with Policy CS9 of the Core Strategy and Policies PSP18 and PSP19 of the Policies, Sites and Places Plan

- 7.55 Again, there is no specific reference to any CS or PSPP policies in the Council’s reason for refusal. However, the putative reason for refusal does refer to ‘recreational pressure on SSSI’ and affords this limited weight.
- 7.56 Policy CS9 seeks to conserve and enhance the natural environment, avoiding or minimising impacts on biodiversity and geodiversity.
- 7.57 Policy PSP18 relates to statutory wildlife sites, European sites and sites of special scientific interest (SSSI). For SSSI, the policy sets out that development proposals which would directly or indirectly have an adverse effect on the nature conservation or geological interests of a SSSI will only be acceptable where the benefits of the development at that location clearly outweigh both the impact on the site and on the wider national network of SSSIs.
- 7.58 Policy PSP19 relates to wider biodiversity and seeks to protect against the loss or deterioration of irreplaceable habitats. It also seeks, where appropriate, biodiversity gain from development proposals.
- 7.59 In respect of on-site ecological impacts, there are no objections from the Council. The potential for any ecological effects has been suitably considered and addressed through the application proposals.
- 7.60 In addition, calculations (as set out in the Ecological Addendum (**Core Document 2.10**) show that the Appeal Proposals are expected to deliver a 35% biodiversity net gain (BNG) with updated calculations based on the updated Illustrative Framework Masterplan (at **Core Document 6.2**) showing that this would increase to 55% BNG. Whichever figure is taken, it is clear that the potential for BNG to be delivered on the Appeal Site can be substantially in excess of the requirements of Policy PS19 (which only seeks BNG (no specific quantum or percentage), and only where appropriate to do so). It also substantially in excess of the Government’s future intention to secure the delivery of 10% BNG from all development proposals (although the Government has very recently announced that the introduction of the requirement for development to provide BNG (due to come into effect in November this year) is to be delayed until January 2024). I consider this in more detail under the benefits section of my evidence.
- 7.61 In respect of Policy PSP18 and the protection of SSSI’s, there is a need to consider the potential impacts of the development to the Lower Woods SSSI. The Council do cite ‘*Recreational pressure on SSSI*’ as an adverse impact of the Appeal Proposals and afford this limited weight. The Council’s SoC (**Core Document 7.2**, paragraph 4.11), also states that:

“The Council will demonstrate that, notwithstanding the re-routing of Public Right of Way (PRoW) LWR/25, an increase in residents in the village of Wickwar is likely to increase the number of walkers who use the nearby SSSIs and, in particular, Lower Woods, which, according to Natural England, is already suffering from damage from increased usage.”

7.62 However, what the Council’s SoC fails to set out is that Natural England, as a result of the on-site mitigation measures proposed, does not raise any objections to the Appeal Proposals (please see **Core Document 3.45**). I summarise the Appellant’s considered approach to the impact on the Lower Woods SSSI, below.

7.63 The Ecological Briefing Note prepared by EDP (provided at **Appendix JR3**) confirms that, in initial consultation responses, concerns were raised about the potential additional recreation pressures on the Lower Woods SSSI that could result from future residents of the Appeal Proposals. However, further information on the potential for recreation impacts was then provided by EDP in an Addendum to the Ecological Appraisal (dated February 2023, **Core Document 2.10**).

7.64 Following the submission of that Addendum, Natural England, as the relevant competent authority, confirmed in its final email comments, dated 20 July 2023 (**Core Documents 3.45**), that:

*“I have reviewed the Ecological Addendum (Edp, February 2023) attached to your email and confirm that **we have no objection to the application subject to the measures included in the Ecological Addendum being secured.***

The quantum of greenspace put forward in the application is reasonable in comparison with national standards such as Fields in Trust. The overall amount of greenspace provision is therefore considered acceptable.

The additional links to the Public Right of Way Network to the north are welcomed. In addition to the physical connection of the site to the PROW network, we would welcome if a welcome pack could be supplied to new residents highlighting the PROW network and accessible greenspace away from Lower Woods SSSI and Bishop’s Hill Wood SSSI. This welcome pack should also highlight the sensitivity of the SSSIs to recreational disturbance and appropriate actions residents can take if visiting the SSSIs to limit disturbance.

There are known issues with recreational pressure at Lower Woods SSSI as highlighted in Gloucester Wildlife Trust’s comments on the application. As the managers of the site GWT will have a good understanding of the current pressures on the site and it’s management, there may be specific onsite measures at the SSSI which the applicant may be willing to support due to the issues with recreational pressure at the SSSI.” (my emphasis)

7.65 The Council’s Ecological Planning Advisor, Benjamin Goodger, also confirmed in his final comments dated 29 March 2023 (**Core Document 3.5**), that:

"I have reviewed the Addendum to Ecological Appraisal and Biodiversity Net Gain Calculations, both prepared by EDP in February 2023. I have also reviewed the revised Masterplan and Landscape Strategy.

I am satisfied that these documents have sufficiently addressed the ecology comments of 8th February 2023 made by Arup on behalf of the Council. The revised scheme demonstrates additional ecological enhancements, as reflected in the new Biodiversity Net Gain (BNG) calculations. I note that additional measures are proposed to further reduce potential impacts from recreational pressures on Lower Woods SSSI.

Requirements prior to determination:

None."

- 7.66 Despite the above, a response from the Gloucestershire Wildlife Trust (21 July 2023, **Core Document 3.31**) continued to raise concerns about the recreation impacts of the development. That response suggests that:

"There are mitigating works and processes that could be bought to play 'off site' that could do much to allow the development to go ahead without compromising the integrity and ecological value of lower woods. Mitigation works both soft (education) and hard (infrastructure improvements) do of course do (sic) come at cost and it does seem reasonable that the development rather than GWT - the owner of Lower Woods bears the substantial burden of this. We maintain our objection therefore unless the developer commits to fund agreed mitigating measures to manage the burden on Lower Woods of their development through a Unilateral undertaking or by whatever means can be agreed.

If minded to consent then this should be conditioned such that the ecological management plan is implemented in full, and if the above cannot be achieved that the developers at least enter into negotiations with GWT on how best to manage increased visitor pressure on Lower Woods."

- 7.67 The Appellant recognises the value and importance of ecological habitats, such as those provided by the Lower Woods SSSI and so, notwithstanding that there are no residual objections raised by either Natural England or the Council's Ecologist, the Appellant asked EDP to engage with the Wildlife Trust to discuss what contributions might be appropriate to deliver suitable management and mitigation at the Lower Woods SSSI. Unfortunately, to date, the Wildlife Trust has not engaged with EDP and so, EDP has considered what measures have been secured elsewhere in similar situations.
- 7.68 They have advised that, as well as securing the provision of educational resources to a new population in the form of 'Welcome Packs' (as recommended by Natural England, and as now proposed to be secured by planning condition), that a financial contribution of £193.00 per residential unit to Wildlife Trust could be secured in order to fund the delivery of Strategic Access Management and Monitoring Measures. This may include, but not be limited to, the recruitment of wardens; maintenance of infrastructure; provision of education boards; habitat monitoring; etc.

- 7.69 For comparison, such a contribution is consistent with the strategic mitigation strategy adopted by Cotswold District Council for the management of recreational pressures across Cotswold Beechwoods Special Area of Conservation (SAC) which is similarly designated for woodland habitats (albeit an internationally designated site as opposed to a national designation).
- 7.70 On that basis, EDP conclude that the financial contribution to managing access within Lower Woods SSSI, together with the provision of inherent mitigation within the Appeal Site to reduce the number of additional visitors to the SSSI, will ensure that there are no significant adverse recreational effects on Lower Woods SSSI as a result of the Development Proposals. Indeed, such measures will also ensure the delivery of significant biodiversity benefits.
- 7.71 The Appeal Proposals accord with Policy PSP18 and with Policy CP9 and Policy PSP19.

Loss of Agricultural Land – Accordance with Policy CS9 of the Core Strategy

- 7.72 Policy CS9 seeks to maximise opportunities for local food cultivation by (a) avoiding the best and most versatile agricultural land and (b) safeguarding allotment sites.
- 7.73 The Appeal Proposal do not involve the loss of any existing allotment sites, indeed, it will provide additional allotment provision for the local community and so will support local food production. The Appeal Proposals are also expected to deliver community orchards as part of the final green infrastructure strategy. The Appeal Proposals will accord with Policy CP9 in that respect and the provision of allotments and orchards is a benefit of the Appeal Proposals.
- 7.74 Policy CP9's protection of best and most versatile agricultural land accords with Paragraph 174 of the NPPF which requires decision makers to recognise the economic and other benefits of the best and most versatile agricultural land.
- 7.75 Best and most versatile agricultural land is defined in the glossary to the NPPF at Annex 2 as "*Land in grades 1, 2 and 3a of the Agricultural Land Classification.*" There is no policy provision requiring decision makers to recognise the benefits of (and conversely any potential adverse effects from the loss of) land that is not best and most versatile agricultural land.
- 7.76 The loss of agricultural land was not raised as an issue by Officers during the course of the consideration of the application. The Officer's Report to Committee (**Core Document 4.9**), confirms at paragraph 5.201, that
- "The land has no special landscape or ecological designation and lies within an area that is Grade 3 (Good to Moderate) and thus there is no additional protection for the land afforded by the NPPF. Policy CS9 (9) seeks to protect the most versatile land for food production, but at Grade 3, the land is not within this category and a reason for refusal on this basis cannot be sustained."*
- 7.77 The Council's SOC (**Core Document 7.2**) states, at paragraph 4.10, that:

“The proposal will use up 7.89 ha of Grade 3b and Grade 4 agricultural land which is an adverse impact of the proposal which attracts limited weight.”

- 7.78 The Council’s putative reason for refusal only refers to the loss of Grade 3 agricultural land, affording this limited weight.
- 7.79 The Council case is, at best, confusing, referring to different land classifications and seeming to afford it protection despite acknowledgement that it is only best and most versatile land that is provided with any policy protection at both the national and local level.
- 7.80 The Appellant sought to engage with the Council on this matter to seek to remove it as a matter of dispute between the parties. Having reviewed the most up-to-date available data, it was identified that the agricultural land that will be lost as a result of the Appeal Proposal is entirely Grade 4.
- 7.81 I provided this evidence to the Council by email on 6 September, attaching an agricultural land classification map prepared for the former Ministry of Agricultural, Food and Rural Affairs. I also provided a plan, prepared by EDP which overlaid the red line for the appeal site onto those agricultural classifications – the plans submitted to the Council are included at **Appendix JR6**.
- 7.82 The Council questioned this dataset, referring to another dataset on Natural England’s open database that suggested the land to be Grade 3 agricultural land. However, the Appellant clarified that the dataset that we had referred to and provided (on which the plan EDP prepared is based – **Appendix JR6**) uses a post 1988 dataset, and is based on actual site visit / sampling which in this instance dates to 1997. The data the Council was citing was provisional / predicated dataset (referenced as pre-1988). Based on the most up-to-date data (which is based on a site visit and sampling), the land is all Grade 4 (‘Poor’) agricultural land.
- 7.83 The Council has still, to date, not been willing to agree the position with the Appellant and so we have further obtained a letter from Dr Mike Palmer, Director of Land Research Associates (letter at **Appendix JR7**), who confirms that’s the Appellant’s consideration of the agricultural land classification maps is correct.
- 7.84 The Appeal Site not best and most versatile land and there is no policy protection at either a local or national level for poor quality agricultural land. The Appeal Proposals would accord with CP9 in this respect.

Transport Effects – Accordance with Policy CS8 of the Core Strategy

- 7.85 Again, there are no specific Development Plan policies cited by the Council in its putative reason for refusal, however, it does suggest that increased reliance on car borne transport is an adverse impact of the Appeal Proposals.
- 7.86 Policy CS8 ‘Improving Accessibility’ sets out that new development proposals which generate significant demand for travel will be more favourably considered the nearer they are located to existing and proposed public transport infrastructure and existing

facilities and services. The policy further confirms that developments which are car dependent or promote unsustainable travel behaviour will not be supported.

7.87 In respect of the first aspect of the policy, there are existing bus stops on Sodbury Road close to the Appeal Site. There is also an existing bus service which serves the village and provides links to Yate and Wootton under Edge. However, the Council has concerns about the adequacy and longevity of that service and suggests that, without improvements, the development will lead to a car dependent development. Whilst not cited as a policy we conflict with, I assume the Council would suggest that there is a conflict with Policy CS8 if such improvements are not secured.

7.88 With regards to bus provisions, the Council, in its SOC (paragraph 2.5 and 2.6), confirm the following:

“There is a bus stop on Sodbury Road at the NE corner of the site. with services 84 & 85 which until recently connected to Yate, Wootton -Under -Edge and Chipping Sodbury. However as of the end of June 2023 these services ceased to be run by Stagecoach and a less frequent service was picked up by The Big Lemon bus company. This service runs in a circular loop (84 is clockwise; 85 is anticlockwise) taking approximately 2 hours for the full loop. The service accesses nearby villages, including Wickwar, between Yate and Wootton Under Edge. The service runs 6 times a day.

Additionally, West of England Combined Authority has introduced Dynamic Demand Responsive Transport (DDRT) bus services within South Gloucestershire. This is essentially a dial-a-bus service, where, using an app on a smart phone one can request a bus. Which will arrive at a designated bus stop to transport the requester to a transport hub (for example Yate Train Station).”

7.89 Later, at paragraph 4.3 of the Council SOC (**Core Document 7.2**), the Council raised the following concern under the heading ‘Increased Reliance on Car-Borne Journeys’:

“The Council will show that the current bus provision is both poor and uncertain and that this will essentially be a car borne development. Although there is currently a bus service (Run by The Big Lemon Bus Company) that runs through Wickwar, it is infrequent and has only short-term funding. Dynamic Demand Responsive Transport (DDRT known as Westlink) is early on in a 2-year trial and there is no certainty of any future funding. The bus service cannot be relied upon to provide a viable alternative to the private car.”

7.90 On this basis, the Council’s SOC only refers to uncertainties in bus provision being its concern in relation to the Appeal Proposals being a ‘car borne development’. Furthermore, the Council’s Transport Development Control Team response (22 June 2023, **Core Document 3.34**) confirms that “We therefore require the confirmation of a funding a new bus service to make the development acceptable in transport planning terms”.

7.91 The Appellant has always recognised the importance of bus services, not just to the Appeal Development, but also to the village of Wickwar as a whole. As such, the Appellant accepts the need for the Appeal Development to provide an appropriate financial contribution to help secure an appropriate bus service for the Proposed

Development which will, in turn, also serve the wider village and, indeed, a far greater number of residents along the future bus route.

- 7.92 The Appellant was first made aware of the request from the West of England Combined Authority²⁰ (WECA) for a financial contribution of £2.5M to improve bus services (£450,000 over a five year period), at a meeting between NRP and the Council's Highways Officer, Myles Kidd, on 9th June 2022. NRP queried how this figure was derived and requested copies of any report that may have been prepared by WECA to support the sum being requested. Mr Kidd kindly agreed that he would seek to discuss this with WECA and then provide the relevant information. Unfortunately, Mr Kidd was not able to contact WECA nor provide any additional detail to the Appellant so that we could better understand and review the sum sought. NRP then sought to contact WECA directly and the evidence of Mr David Knight for the Appellant confirms the various attempts that were made to make contact with relevant Officers at WECA.
- 7.93 Unfortunately, as a result of the Appellant having not been provided with the evidence justification for the bus contribution, the Appellant found it necessary to commence, through NRP, its own bus modelling exercise. That modelling work is considered in more detail in the evidence of Mr David Knight.
- 7.94 Based on the modelling work that the Appellant has progressed, it is our view in that the level of the financial sum requested by WECA is not necessary nor commensurate with the Appeal Proposals. Indeed, the modelling work that NRP has undertaken, and which Mr Knight expands upon in more detail, suggests that there is opportunity to provide an imported and viable bus service for the village (without the need for any financial support), running between Yate and Wooton Under Edge and providing a 30-minute frequency during the peaks, with a 1-hour frequency during the interpeak. This is considered in more detail as Option 6 by NRP in its 84/85 Alternative Bus Route Technical Note (**Core Document 7.4**) and is discussed in more detail in the evidence of Mr Knight.
- 7.95 Whilst the evidence suggests that such a route (with improved frequency) could be viably provided without any financial contribution, the Appellant considers that it is appropriate, in the interests of removing any uncertainty with regards to the viable provision of such a service, to provide a financial contribution (£50,000 per annum over a five year period) to support its delivery. In addition, the Appellant also considers it appropriate to provide a personal travel plan contribution of £150,000 which is intended to be used to encourage bus patronage along the new route. Again, Mr Knight discusses this in more detail in his evidence.
- 7.96 The Appellant intends to continue discussions with SGC and WECA to seek to reach agreement on an appropriate final contribution toward bus provisions. However, if this cannot be agreed, the S106 drafting to date has been progressed in such a way so as to include the contribution that WECA has requested (through SGC)²¹, and an alternative contribution based on the modelling we have prepared. The Inspector will then be able to determine the appropriate contribution based on the evidence on which contribution

²⁰ The West of England Combined Authority (WECA) took over the responsibility for running bus services from South Gloucestershire Council

²¹ £450,000 per annum for 5 years (£2,250,000 in total) - **Core Document 3.34**

is the appropriate one in order to deliver an appropriate bus service for the Appeal Proposals.

- 7.97 On this basis, whichever contribution is secured, the Appeal Proposal will ensure that there are appropriate sustainable transport options, beyond the use of the car and so the Appeal Proposal will not be car dependent and would therefore accord with Policy CS8.

Conclusions on the Appeal Scheme's Accordance with the Development Plan

- 7.98 I have identified that the appeal proposals conflict with Policy CS5 and Policy CS34 given the site's location outside of the settlement boundary. However, there is agreement here that these policies are out of date and should be afforded only limited weight.
- 7.99 There is also conflict with the landscape aspects of Policy CP9, however, that conflict would appear to be an inevitable consequence of a greenfield development. Furthermore, to the extent that this policy is an important determinant in this Appeal, I note that the Inspector in the recent Thornbury appeal found this to be a most important policy for the determination of that appeal²².
- 7.100 Policy PSP2 is more nuanced and, whilst there is some acknowledged harm, the policy allows development to come forward where the benefits of the proposals outweigh the harm and where harm is minimised and mitigated through the form of the development and where reasonable the provision of landscape enhancements. Whilst I deal with the public benefits in detail later in my evidence, those benefits would substantially outweigh any harm in my view, and therefore the Appeal Proposals should be found to accord with PSP2.
- 7.101 In respect of heritage policies, it is the Appellant's case that there would be a very minor degree of less than substantial harm to a heritage asset (South Farmhouse). As such, there is some conflict with both Policy CS9 and PSP17, however, both policies are not compliant with the NPPF (as concluded in the Thornbury decision (**Core Document 5.1**)). Any conflict with the policies must, therefore, be afforded less weight in the balance. A balanced judgement needs to be undertaken which has regard to the significance of South Farmhouse and the amount of significance it would lose as a result of the development.
- 7.102 There is no conflict with policies²³ in respect of ecology/biodiversity, the protection of SSSIs, the loss of best and most versatile agricultural land and accessibility.
- 7.103 Importantly, in terms of the overall Development Plan and the Appeal Scheme's accordance or otherwise with it, given that there is agreement in this case that the CS is out of date, the NPPF is clear that applications should be considered in the context of the presumption in favour of sustainable development where policies are found to be out of date. Policy CS4A of the CS also repeats this presumption. Policy CS4A requires permission to be granted unless the impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the

²² Paragraph 169 of **Core Document 5.1**

²³ Policies CS8, CS9, PSP18 and PSP19

Development Plan and NPPF taken as a whole, or unless specific policies in the Development Plan or NPPF indicate that development should be restricted.

- 7.104 On this basis, one needs to determine if the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Those adverse effects would rightly include any adverse effects as a result of any conflict (and harm arising from that conflict) identified with other policies in the Local Plan (including the conflict I have identified with Policies CS5, CS34, and elements of CS9 and PSP17 above.
- 7.105 If having undertaken that exercise, the decision maker concludes the adverse impacts do not significantly and demonstrably outweigh the benefits, then the Appeal Proposals should be found to accord with Policy CS4A and therefore with the Development Plan as a whole. I now turn to that assessment in the next section of my evidence, below.

8. The Presumption in Favour of Sustainable Development: Do any Adverse Impacts Significantly and Demonstrably outweigh the Benefits?

- 8.1 Having considered the Appeal Scheme's accordance with the Development Plan, this section of my evidence turns to consider whether there are any adverse effects which on their own, or in combination, would significantly and demonstrably outweigh the benefits of development.
- 8.2 Ahead of that, it is worth me briefly explaining the weighting scale that I use when weighing the benefits and any adverse impacts in the planning balance. The scale that I use when considering the overall planning balance is generally as follows:
- No Weight;
 - Limited Weight;
 - Moderate Weight; and
 - Significant Weight.
- 8.3 Other witnesses may use different weighting scales and I note that the Council uses 'substantial' in its putative reason for refusal in respect of *'increased reliance on car borne transport'*.
- 8.4 Mr Stacey for the Appellant also refers to the delivery of affordable housing being a benefit that should be afforded substantial weight. That level of benefit or adverse effect would translate to being significant on my scale – that does not reflect a difference of opinion on the overall importance or weight to be given to the benefit, only that I find it easier (and particularly when there will be members of the public who may read this evidence) to use the above simple weighting scale when providing my planning evidence.
- 8.5 I further explain this where necessary as part of my overall balancing exercise. There are also occasions where I may use a slightly different language to reflect specific Government policy or guidance – 'great weight' for example to any heritage harm.
- 8.6 I start by considering the benefits of the development, before turning to the adverse effects.

The Benefits of the Appeal Proposal

Benefits of the Appeal Proposal: The Delivery of Homes

- 8.7 My separate proof of evidence on housing delivery and housing land supply demonstrates that:

1. The under-delivery in the plan period at 1st April 2022 (the Council's Five year housing land supply base date) is **2,737 homes**. This is a very substantial shortfall in delivery against the Council's CS housing requirement.
2. Using the Council's own figures on predicted deliverable supply in the next 5 years (which takes it to 2027, the end of the final year of the CS plan period), the cumulative under-delivery against the minimum housing requirement will still be **1,819 homes**. This remains a very significant shortfall. Based on my assessment of deliverable supply in the next five years this shortfall would rise to **3,125 homes**.
3. Whichever figure is taken, it is clear that the Council's housing strategy will fail over the plan period with substantially fewer homes being delivered compared to the minimum requirement.
4. The Council is only able to demonstrate a **4.44 year supply, a shortfall of 810 homes**.

8.8 In the context of the shortfall in housing delivery to date, the shortfall in housing delivery in the plan period as a whole and the absence of a sufficient housing land supply in the next five years, the contribution the Appeal Proposals can make towards addressing these shortfalls is a benefit that should be afforded **significant weight** in the planning balance.

8.9 The Council also afford this benefit significant weight²⁴.

Benefits of the Appeal Proposal: Delivery of Affordable Homes

- 8.10 An Affordable Housing Statement which considers the need for affordable homes has been prepared by Mr James Stacey of Tetlow King and is provided at **Appendix JR2**.
- 8.11 Mr Stacey confirms the national housing crisis in the UK affecting many millions of people who are unable to access suitable accommodation to meet their housing needs. He also confirms there is an acute housing crisis in South Gloucestershire with market signals indicating a worsening trend in affordability and demonstrating that urgent action must be taken to deliver more affordable homes.
- 8.12 Mr Stacey demonstrates that there is a substantial local need for affordable housing in both South Gloucestershire and in Wickwar itself, which the Appeal Proposals would assist in meeting.
- 8.13 Against the scale of unmet need and the lack of suitable alternatives in the private rented sector across South Gloucestershire, the provision of 35% affordable housing (up to 63 affordable homes) will make a substantial contribution.
- 8.14 Considering all the evidence, Mr Stacey concludes that the delivery of affordable homes from the Appeal Proposals is a benefit that should be afforded substantial weight in the determination of this appeal. I attribute the benefit of the delivery of affordable housing

²⁴ As confirmed in the Council's putative reason for refusal at section 1.9 of the Council's Statement of Case (**Core Document 7.2**) and also in the main (planning) SOCG (**Core Document 7.11**)

significant weight, using my weighing scale. As I have set out above, that does not reflect a difference of opinion on the overall importance or weight to be given to this important benefit, it is merely a difference in the weighting scale that we both use as professional witnesses.

- 8.15 The Council in this case state that significant weight²⁵ should be afforded to the delivery of affordable homes on the Appeal Site.

Benefits of the Appeal Proposal: Delivery of Self Build/Custom Homes

- 8.16 The development will provide 5% of the housing plots for self/custom build dwellings in accordance with PSP42 of the PSPP.
- 8.17 In the main (Planning) SOCG (**Core Document 7.11**) it has been agreed that the total number of registered applicants on the Council's self-build register is 1,262.
- 8.18 Compared to that number of registered applicants, it has also been agreed that 429 self build/custom plots have been delivered/have planning permission, a shortfall of 824 plots compared to the registered interest.
- 8.19 On that basis, it has been agreed with the Council²⁶ that the provision of self-build/custom plots is a benefit that should be afforded **significant weight** in the planning balance.

Benefits of the Appeal Proposal: The Provision of Land for a Shop and Appropriate S106 Obligations to Secure its Delivery

- 8.20 A new local shop is proposed as part of the Appeals Proposals. The land for the shop is indicatively show on the illustrative plans adjacent to Sodbury Road, close to existing bus stops and with direct access (by walking and cycling) into or from the centre of the village.
- 8.21 Careful consideration has been given to the land required to accommodate such a facility and appropriate allowance has been made to accommodate this use within this area, having regard to input provided by potential operators. The provision of land for a shop and measures to support its successful delivery will be secured in the S106 Agreement.
- 8.22 Wickwar did used to have a convenience shop in the centre of the village. However, this shop closed many years ago, and I understand that it was converted into a dwelling. I understand that the premises in which the shop operated was not really suitable for such provision and this was a reason for its closure. The lack of a convenience store in the village is a notable shortfall for the village in terms of access to services and facilities.

²⁵ As confirmed in the Council's putative reason for refusal at section 1.9 of the Council's Statement of Case (**Core Document 7.2**)

²⁶ As confirmed in the Council's putative reason for refusal at section 1.9 of the Council's Statement of Case (**Core Document 7.2**) and also in the main (planning) SOCG (**Core Document 7.11**)

- 8.23 Bloor Homes has considerable experience in bringing forward convenience shops as part of its proposals²⁷. It has also been engaged with commercial agents for retail operators who have shown a keen interest in providing a new shop in the village. A letter from Mid Counties Cooperative has also been provided at **Appendix JR8** which confirms that they would be interested in securing the site if the Appeal were allowed.
- 8.24 The Council has questioned the Appellant's approach to application for the delivery of the shop in the S106 agreement. The Appellant has been informed by retail marketing agents and retailers (who have shown interest in the site) that the preference would be to have a serviced site available to acquire, for the retailer to then bring forward a building that meets their specification, rather than having a building/shell in place that does not meet their requirements. This is also confirmed by the letter from Mid Counties Cooperative.
- 8.25 The Appellant has, therefore, sought to secure provisions in the S106 in a way that is expected to be the most attractive to a retail occupier and, therefore, gives the best prospects of securing a shop on the land. Bloor Homes has also confirmed its support for there to be appropriate marketing obligations in the S106 and is also happy to secure additional cascade mechanism which would be triggered if the initial period of marketing is unsuccessful (although based on interest to date, we do not expect that to be the case), and that could include an obligation to prepare and submit a reserved matters application for the retail unit and then construct it to shell. The Appellant will continue to work with the Council to agree appropriate obligations to secure the delivery of shop.
- 8.26 The delivery of a new shop for the village will also provide a considerable benefit in respect of reducing the potential car borne dependence of the village, by providing a convenience retail facility within the village itself, and reducing the need to travel (potentially in the car) to other retail facilities further afield, with the nearest convenience store being the Tesco Express at Yate, approximate 4.5km away. This is considered in more detail, below.
- 8.27 Overall, the provisions of land for a shop, and the agreement of appropriate obligations in the S106 to secure the delivery of the shop is a significant social benefit that should be afforded **significant weight** in my view.

Benefits of the Appeal Proposal: Reduced Reliance on Car Borne Transport: The Proposed Shop and Provisions to Secure a Viable Bus Service for the New Development and the Village as a Whole

- 8.28 The Council in its putative reason for refusal cite increased reliance on car borne transport as an adverse impact and suggested that this should be afforded substantial

²⁷ Including at a recent development in South Gloucestershire at Thornbury (under outlined application ref. PT12/2395/O), with the shop now delivered and operational.

weight in the planning balance. This concern appears to primarily arise due to concerns about the level of bus provision and uncertainties regarding its future operation²⁸.

- 8.29 With regards facilities, I have already considered, above, the intention for the Appeal Proposals to provide land for a shop and to secure its delivery through appropriate provisions in the S106 Agreement.
- 8.30 It has been agreed with the Council that the proposed shop, if delivered on site, would provide a convenience retail facility which is not currently available to the village²⁹. Indeed, in email correspondence from Liz Fitzgerald of the Council (email provided at **Appendix JR9**), *“the significance of the retail unit in respect of sustainability and transport movements...”* is confirmed.
- 8.31 In addition, the Council’s Transportation Development Control Team confirmed in its response (23 June 2023, **Core Document 3.34**) that *“The mixed use provision, if taken forward, helps with travel containment and is supported should planning consent be approved.”*
- 8.32 Mr Knight for the Appellant also confirms, at paragraph 6.4.1 of his evidence that:
- “This will undoubtedly result in a reduction of car-based food shopping trips for existing residents in Wickwar.”*
- 8.33 I have already afforded the delivery of the shop weight above (and so I do not double count them here), and the improvements to locational sustainability support the significant weight that I afford to it as a benefit.
- 8.34 With regards to bus provisions, I have considered this in detail under my consideration of the Appeal Scheme’s accordance with Policy CS8 in Section 7 of my evidence. The Appeal Proposals, and the proposed financial contributions to ensure delivery of a new bus service will, in the Appellant’s view, secure an attractive and viable service for future residents of the Appeal Development and the Village.
- 8.35 Indeed, the evidence from the Council suggests that, without the financial sums that could be secured from the development, the future of bus services to the village is uncertain³⁰ and so, in that respect, the contributions that will be secured by the Appeal Proposals towards bus services, will provide a much wider public benefit i.e. if the service is lost which, on the Council’s own case, would seem more likely to occur than not if a financial contribution is not secured by our Appeals Proposals, then the village as a whole will become much more car dependent with resultant planning harm. I am certainly

²⁸ The Council’s SOC (**Core Document 7.2**, paragraph 4.3 and 4.4) only refers to uncertainties in bus provision being the concern in relation to the Appeal Proposals being a car borne development. The Council’s Transport Development Control Team response (22 June 2023, **Core Document 3.34**) confirms that *“We therefore require the confirmation of a funding a new bus service to make the development acceptable in transport planning terms”*.

²⁹ Please see the main SOCG (**Core document 7.11**), paragraph 7.23 – although the Council was not willing to agree that this would improve the locational sustainability of the village, despite previously emphasising the importance of securing it through the S106

³⁰ The Council’s SOC (**Core Document 7.2**), paragraph 4.3

aware that the loss of bus services is an important issue for the local community³¹, and these proposals can help to address that concern.

- 8.36 Indeed, the Council, in its putative reason for refusal, set out “*Increase reliance on car borne transport*” as a potential adverse effect of the appeal proposals and afford this *substantial weight*. As such, provisions to secure the delivery of a bus service which will lead to improved opportunities to use non-car methods of travel, must conversely be seen as a benefit of the proposals. If using the Council’s weighting, this benefit should be afforded ‘substantial weight’.
- 8.37 In line with the scale of weight that I use in my evidence, I afford this benefit **significant weight** in the planning balance.

Benefits: Other Highway/Accessibility Improvements

- 8.38 The Appeal Proposals will also delivery other highway and accessibility improvements. These include³²:

- A southbound bus stop at the southern access with footway extensions;
- A zebra crossing on Sodbury Road to the north of the southern access over the raised table, with footway extensions to tie into the new southbound bus stop;
- A village gateway with speed roundels and gateway features on Sodbury Road to the north of the Frith Lane junction;
- A zebra crossing on Sodbury Road provided over the raised table to the south of northern access;
- Formalisation of on-carriageway bus cages for north and southbound services to the south of northern access;
- Proposed relocation and expansion of pedestrian refuge area on Sodbury Road, the southern arm of the Amberly Way mini-roundabout;
- Upgraded signals at B4060/B4059 junction to MOVA operation; and
- Wayfaring signs, dropped kerbs and tactile paving on Burleigh Way, Amberley Way and Inglestone Road to support safe route to the primary school.

- 8.39 These accessibility improvements will benefit not just future residents of the development, but will also result in accessibility improvements for wider residents. I afford these benefits **limited weight** in the planning balance.

Benefits of the Appeal Proposal: Economic Benefits

- 8.40 There are a number of direct and indirect economic benefits that will result from the development. These economic benefits are summarised on the Economic Benefits

³¹ Please see two BBC articles at **Appendix JR10**

³² And also confirmed in the Highways SOCG (**Core Document7.6**)

Statement prepared by Turley Economics and which is contained at **Appendix JR5**. These benefits include:

- Approximately £37 million invested in construction.
- Approximately £41 million productivity boost, with £37.5 million productivity boost to South Gloucestershire's GVA during construction.
- Circa 90 gross direct jobs, 55 net direct jobs and 25 indirect induces jobs created from the construction phase of the development.
- Circa 15- 25 on site jobs from the proposed shop.
- Approximately £400,000 in additional Council tax per annum; and
- An additional circa £1.6M spent of leisure goods and services, enough to support 65 jobs, with some of this spend to benefit local businesses in the villages including the pub, coffee shop and hairdresser (supporting their viability).

8.41 The economic benefits of the proposed development should be afforded **significant weight** in the planning balance, as required by paragraph 81 of the NPPF.

8.42 This level of weight has been supported by a number of Inspectors in recent appeals³³, even where these developments have been for housing schemes which are substantially smaller in scale than that proposed by this Appeal.

Benefits of the Appeal Proposal: Environmental Benefits

On Site Benefits

8.43 The identified environmental benefits including the retention and enhancement of the existing hedgerows, and provision of new trees, woodland, orchards and hedgerows and the overall delivery of a substantial net gain in biodiversity.

8.44 Indeed, current calculations (as set out in the Ecological Addendum (**Core Document 2.10**)) show that the Appeal Proposals are expected to deliver a 35% BNG and updated calculations at **Appendix JR4** show this potentially increasing to 55% BNG. Whichever figure is taken, this is substantially in excess of any policy requirement in South Gloucestershire and is also substantially in excess of the Government's future intention to secure the delivery of 10% net gain in biodiversity from all development. These environmental measures and benefits alone should be afforded **moderate weight**.

Off-Site Benefits

8.45 Beyond the onsite measures, there is also the need to consider the potential impacts of the development to the Lower Woods SSSI. I have considered this in detail, in Section 7

³³ Semington (Appeal Ref 3236860 (**Core Document 5.25**)) for 26 homes - paragraph 59 and Calne (Appeal Ref. 3275477) – for up to 28 homes – paragraph 87 (**Core Document 5.26**)

of my evidence, under my consideration of the Appeal Scheme's accordance with Policy PSP18. I have found that the Appeal Scheme would accord with that policy.

- 8.46 Furthermore, EDP conclude that the financial contribution to managing access within Lower Woods SSSI, together with the provision of inherent mitigation within the Site to reduce the number of additional visitors to the SSSI, will ensure that there are no significant adverse recreational effects on Lower Woods SSSI as a result of the development proposals. Such measures will also ensure the delivery of additional biodiversity benefits, to an asset that is afforded national protection.
- 8.47 As such, rather than an adverse impact of the proposals (to which the Council affords limited weight), the provisions proposed by the Appellant result in a benefit of the Appeal Proposals that that should be afforded at least **moderate weight** in my view.

Benefits of the Appeal Proposal: Additional Social benefits

- 8.48 The social benefits of the proposal include the delivery of a range of housing types, including affordable homes.
- 8.49 The Appeal Proposals will lead to a continued growth at the settlement that will help support strong, vibrant and healthy communities which is in accordance with both national and local policy. A proposal, which one would expect to attract new families to the village, and provide affordable homes, a proportion of which are likely to be taken up by younger cohorts unable to afford open market homes, will support the longer term vibrancy of the village including through the support for local businesses and through the partaking in and support for local clubs and activities.
- 8.50 In addition, The Appeal Proposals will also deliver a significant quantum of open space in excess of policy requirements³⁴. This includes both formal play provision, natural and semi natural green infrastructure, allotments and orchards which will be available to both new residents and the wider community. This overall level/quantum of open space will be secured in the final S106 Agreement. This will provide opportunities for community social interaction.
- 8.51 There is also the creation of improved pedestrian links connecting to the existing PROW to the north of the Appeal Site (LWR/25). The NPPF states, at paragraph 100, that:

"Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails."

³⁴ Pages 84 and 85 of the DAS (**Core Document 2.2**) show that 2.58ha of open space will be provided. Excluding outdoor sports (for which a financial contribution towards offsite provision will be secured by the S106), this is 1.13 ha more than required by policy (and this also excludes the proposed attenuation basins). The overall 'Open Spaces' to be secured in the S106 (which is defined as including the allotments the ancillary open space the public open space and the surface water infrastructure is 3.25ha)

- 8.52 In addition, Natural England in its final consultation response (Core Document 3.45) confirmed that:

“The additional links to the Public Right of Way Network to the north are welcomed.”

- 8.53 The S106 will also secure a library service financial contribution, a library stock financial contribution and a community centre financial contribution (which will be used towards the enhancement of Wickwar Village Hall). The improvements and additional library stock that will result from these contributions will not solely be for the use of residents from the Appeal Development and so will result in an additional social benefit.
- 8.54 Overall, the additional social benefits of the Appeal Proposals should be afforded moderate weight in my view.
- 8.55 Having considered the benefits of the development, I now turn to consider the potential adverse effects of the Appeal Proposals.

The Adverse Effects of the Appeal Proposal

Adverse Effects of the Appeal Proposal: Conflict with the Council’s Spatial Strategy

- 8.56 Starting with the Development Plan, it is acknowledged that there is conflict with Policies CS5 and CS34. However, there is agreement here that these policies are ‘out of date’ and that, as a result, the tilted balance at paragraph 11 d (ii) of the NPPF is engaged.
- 8.57 Whilst the degree of weight to be given to out-of-date policies is a matter for the decision taker, there is agreement in this case that the conflict with the Council’s spatial strategy should be afforded only limited weight. In the absence of up to date policies on the need for homes, and given the substantial evidence on under-delivery to date and in the plan period as a whole, as well as the evidence on shortfalls in housing land supply in the next five years, more homes need to be delivered and, if full weight continued to be applied such policies and restrictions, then this would continue to frustrate the delivery of sites and forms of development that might otherwise be sustainable.
- 8.58 Overall, the level of harm resulting from the conflict with Policies CS5 and CS34 should be afforded limited weight in my view. This accords with the weight afforded to this impact by the Council in its putative reason for refusal.
- 8.59 However, given that paragraph 11 d) i. of the presumption in favour of sustainable development is engaged, this will also result in the provisions of Policy CP4A in the CS being triggered, which provides statutory provision to the presumption in favour of sustainable development.
- 8.60 As I will come onto, there are no adverse impacts that would significantly and demonstrably outweigh the benefits in this case and so planning permission should be granted in accordance with Policy CP4A of the CS and, on the basis, there would be accordance with the Development Plan as a whole. That overall accordance is a matter that weighs in favour of allowing the Appeal in this case.

Adverse Effects of the Appeal Proposal: Landscape Impacts

- 8.61 In respect of landscape effects, the appeal site is considered to be physically and visually well contained and a location where development can come forward in an appropriate manner, without elevated landscape or visual impacts.
- 8.62 The appeal proposals reflect an appropriate scale of development in this location, which recognises existing landscape and settlement character. The landscape effects are limited to the inevitable effects of developing an agricultural field for new homes and this effect should be afforded only **moderate weight**.
- 8.63 The Council afford 'landscape harm' significant weight in its putative reason for refusal. However, on the basis that the harm caused is not to a 'designated landscape' nor to a 'Valued Landscape' for the purposes of paragraph 174(a) of the NPPF, it is difficult to reconcile the significant weight that it affords to the landscape harm in this case and how it would compare to the weight it would give to the harm caused if this were a designated or valued landscape.
- 8.64 The Appellant accepts that there would be landscape harm from the Appeal Proposals, but on the basis of the Site's landscape status, its containment in the landscape, and the measures taken to appropriately design and embed mitigation measures, the provision of moderate weight to landscape harm is appropriate in my view.

Adverse Effects of the Appeal Proposal: Heritage Effects

- 8.65 It is the Appellant's case that there would only be less than substantial harm at the lower end of the scale to South Farm – that level of harm to South Farm is agreed with the Council.
- 8.66 Great weight should be given to any harm to heritage assets, as directed by paragraph 199 of the NPPF, however, there is agreement in respect of South Farm that the overall heritage harm is at the lower end of less than substantial.
- 8.67 There is now agreement with the Council that there would be no harm to the special architectural or historic interest of the Wickwar Conservation Area.
- 8.68 The level of harm to Frith Farm is disputed. Mr Skinner for the Appellant says there is no harm to Frith Farm, whereas the Council says that there would be less than substantial harm (albeit, again, at the lower end of the scale). However, even if less than substantial harm is ultimately identified in respect of other heritage assets, it is my view that, in accordance with paragraph 202 of the NPPF, the public benefits would clearly outweigh the harm in this case.
- 8.69 In accordance with paragraph 199 of the NPPF, whilst the heritage harm to South Farm is found to be at the lower end of less than substantial harm (and that is the only heritage harm arising in the Appellant's case), that harm should still be afforded **great weight**.

Adverse Effects of the Appeal Proposal: Loss of Agricultural Land

- 8.70 I have considered the loss of agricultural land in detail in Section 7 of the evidence.

- 8.71 The Appeal Site is not best and most versatile land and there is no policy protection at either a local or national level for poor quality agricultural land. As most, I afford the loss of this land **negligible weight**.
- 8.72 It would seem to be disproportionate to spend too much inquiry time on this matter, however, the Council is simply wrong in its assessment of the agricultural land quality and, whilst it affords this impact limited weight, even that level of weight is entirely unjustified.
- 8.73 For example, in the appeal decision at Thornbury issued in February this year (**Core Document 5.1**) the Inspector confirmed, at paragraph 171, that:
- “The loss of some 25 hectares of best and most versatile agricultural land would be harmful but the weight to be given should reflect the relatively small quantum, the limited loss in terms of the value to food production, the constraints on development in the district due to the Green Belt and flood zones and the fact that much of the land around the town has similar agricultural value. The harm is therefore a matter of limited weight.”*
- 8.74 Limited weight was given to the loss of 25 ha of best and most versatile agricultural land in the Thornbury appeal, and yet the Council affords the same level of weight to the loss of (on its case), a combination of Grade 3b and 4 agricultural land.
- 8.75 At most, only **negligible weight** should be afforded to the loss of agricultural land in this case.

Adverse Effects of the Appeal Proposal: Recreational Impacts to Lower Woods SSSI

- 8.76 Whilst the Council cite the potential for recreational impacts as an adverse effect, for the reasons I have set out above, the measures that the Appeal Proposals will secure, will actually result in this being a benefit of the Appeal Proposals, rather than an adverse impact.

Adverse Effects of the Appeal Proposal: Any Additional Matters Raised by Wickwar Parish Council, Yate Town Council as a Neighbouring Parish and Members of the Public

- 8.77 Beyond the matters considered above, I have also considered the letters of representation that were submitted by Wickwar Parish Council, Yate Town Council (as the neighbouring parish) and by local residents to SGC in response to the application (which are helpfully summarised by the case officer at paragraph 5.203 of the Officer’s Committee Report (**Core Document 4.9**)).
- 8.78 Many of the matters raised have already been considered in my evidence, above, however, Table JRT1 below provides a summary of matters that have been raised by third parties and my response.

Table JRT1 – Additional Matters Raised by the Parish Council and Third Parties

Matter/Issue Raised	My Comments/Response
<p>The site is located in the countryside.</p> <p>The site is not in the local plan and is contrary to policy.</p> <p>The application proposes speculative development.</p>	<p>It is acknowledged that the site is located outside of the settlement boundary of Wickwar and that, as result, there is conflict with the Councils spatial strategy. However, the CS and the settlement boundaries in the development plan are out of date and should be afforded limited weight. There has also been significant under-delivery to date and there will be significant under-delivery in the plan period as a whole. Based on my evidence, the Council is also unable to demonstrate a sufficient five year housing lad supply. The application has been brought as an appropriate and sustainable site in order to help meet much needed housing needs and in way that will delivery a number of other important planning benefits.</p>
<p>Wickwar is not a sustainable location for growth.</p> <p>There is a lack of facilities an infrastructure to serve the development.</p>	<p>The Village provides a number of services and facilities, and the Appeal Proposals will deliver a shop and an improved bus service for the village. Those bus services will connect the village to higher order settlements including Yate, Wooton under Edge and Charfield and will provide an alternative, sustainable means of travel other than the car. Financial contributions will also be secured through the S106 for improvements to library facilities and stock and improvements to Wickwar Village Hall as well as contributions towards education provision. There has been no suggestion by the Council that other services and facilities would be unable to cope with the level of development proposed and, indeed, the new residents of the development would help to support existing businesses in the village, such as the hair salon, the pub/restaurant, the gym and the coffee shop.</p>
<p>The development will result in adverse traffic impacts, including traffic impacts to roads in Yate.</p>	<p>There have been no objections from National Highways nor from the Council in respect of impacts on the highway network, including any impacts in the adjoining Yate parish - this is further confirmed in the Highways SOCG (Core Document 7.6). The potential highway impacts of the proposals were appropriate considered in the transport work prepared to support the planning application, with the evidence of Mr David Knight summarising the work undertaken.</p>
<p>The development will be car dependent.</p>	<p>The development will provide both a shop and will secure an enhanced bus service for the village. These will improve the locational sustainability of the village of Wickwar and will reduce the car dependency of the Appeal Proposals and the village as a whole, by providing a facility not currently available in the village and by providing alternative travel options, other than the car.</p>

The development will have an adverse impact on wildlife, biodiversity and landscape.	As I have set out in my evidence, the measures that the Appeal Proposals will secure (both on-site and to off-site habitats), will result in this being a benefit of the Appeal Proposals, rather than an adverse impact. The landscape impacts of the proposals have also been fully considered by the Appellant within my evidence and that of Mr Gardner.
There is a lack of school places to serve the development.	As detailed above, the S106 Agreement will secure financial contributions toward education. This includes contributions towards nursery, primary and secondary provisions and towards secondary school transport.
Overdevelopment of the village	Whilst there have been two previously developments in the village, those, in combination with the Appeal Proposals, would not result in any over-development of the village in my view. The Council has not raised any concern regarding the over-development of the village. As set out, above, there has been no suggestion by the Council that services and facilities in the village would be unable to cope with the level of development proposed and, indeed, the new residents of the development would help to support existing businesses in the village and provide contributions towards the improvement of many facilities including library schools and the village hall.
Impact on Wickwar Roman small town	EDP in its Archaeological and Heritage Baseline Assessment considered the roman settlement which is a scheduled monument. The monument is located c. 1.1km from the site boundary to the west. The site is not considered to be part of the setting of the scheduled monument and its development would not result in any harm to its significance. As such, the asset was not considered any further in this assessment. The Council nor Historic England has raised any concern with regards to the Appeal Scheme's impact on the scheduled monument.

8.79 Having considered the matters raised by Wickwar Parish Council, Yate Town Council and by third parties, it is my view that the concerns raised have either been suitably considered and addressed through the technical reports submitted in support of the planning application or have been addressed through the evidence presented for this Appeal. I give the additional matters raised by third parties very limited to no weight in the overall planning balance.

8.80 I now turn to consider the overall planning balance for this Appeal.

9. Overall Planning Balance

- 9.1 Following my consideration, above, to the weight to be given to both the benefits and adverse impacts, **Table JRT2** below provides a summary of the benefits of the proposed development alongside the adverse impacts and the weight that I consider should be attached to each.

TABLE JRT2 - OVERALL BALANCE OF PLANNING CONSIDERATIONS			
POSITIVE BENEFIT		ADVERSE IMPACT	
Positive Benefit	Weight to be Given	Adverse Effect	Weight to be Given
Housing delivery	Significant weight	Harm arising as a result of conflict with the Council's Spatial Strategy³⁵	Limited weight
Affordable housing Provision	Significant weight ³⁶	Impact on the Character and Appearance of the Area	Moderate weight
Delivery of Self Build/Custom Homes	Significant weight	Heritage harm South Farm	Great Weight
The Provision of Land for a Shop and Appropriate S106 Obligations to Secure its Delivery	Significant Weight	Loss of Agricultural Land	Negligible to no weight

³⁵ My evidence finds that there is conflict with the Council's spatial strategy, to which I have assigned harm and given it limited weight, however given the presence of Policy CS4A which provides statutory provision to the presumption in favour of sustainable development, I have concluded that the Development is in accordance with the Development Plan when considered as a whole.

³⁶ Mr Stacey, in his evidence, suggests that substantial weight should be afforded to the delivery of affordable homes. My scale of weighting is no weight, limited weight, moderate weight and significant weight. As such, Mr Stacey's 'substantial' aligns with my 'significant' i.e. it falls at the top end of my scale, and this does not mean that I see the delivery of affordable housing as any lesser benefit than Mr Stacey. The Council also affords this benefit 'significant weight' in its SOC (**CD 7.2**), although I am not aware of the scale that the Council's planning witness, Ms Fitzgerald, intends to use - for example, I do not know if Ms Fitzgerald also uses substantial weight and, therefore, considers the delivery of affordable housing to be a lesser benefit.

Reduced Reliance on Car Borne Transport: Provisions to Secure a Viable Bus Service for the New Development and the Village as a Whole	Significant weight	Other matters Raised by Third parties	No to very limited weight
Other Highway/ Accessibility Improvements	Limited weight		
Economic Benefits	Significant weight		
On Site Environmental Benefits	Moderate weight		
Environmental benefits for Lower Woods SSSI	Moderate weight		
Additional social benefits	Moderate weight		

- 9.2 As can be seen from **Table JRT2**, there are limited adverse effects in this case and substantial benefits of the proposals.
- 9.3 In this case, I have established that paragraph 11 d) i. of the presumption in favour of sustainable development is engaged whereby planning permission should be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as a whole.
- 9.4 This will also result in the provisions of Policy CP4A in the Core Plan being triggered, which provides statutory provision to the presumption in favour of sustainable development.
- 9.5 In this case, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and so planning permission should be granted in accordance with Policy CP4A of the Local Plan and paragraph 11 of the NPPF. Indeed, on the basis that I have found there to be accordance with Policy CP4A, and resultant accordance with the Development Plan as a whole then, in accordance with paragraph 11 of the NPPF and with Policy CP4A, planning permission should be granted without delay.

10. Summary and Conclusions

- 10.1 The Proposed Development is for the construction of up to 180 dwellings, a local shop and associated infrastructure on land at Sodbury Road, Wickwar. The application was submitted in outline form with all matters reserved except for the primary access.
- 10.2 The Council has advanced only two putative reasons for refusal in this case, but a S106 agreement is expected to deal with the Council's second reason for refusal. On this basis, my evidence focuses on the Council's first reason for refusal including the adverse impacts alleged and the overall conclusions that the adverse impacts significantly and demonstrably outweigh the benefits, when considered against paragraph 11 d) ii. of the NPPF.
- 10.3 Starting with the Appeal Scheme's accordance with the Development Plan, whilst there are no actual Development Plan policies that are cited by the Council in its putative reason for refusal, it does make reference to conflict with the Council's spatial strategy, and there are also other alleged adverse impacts the Council raises on landscape, heritage, agricultural land (through its loss) and ecology (through recreational impacts to the Lower Woods SSSI) on which there are Development Plan policies.
- 10.4 I conclude that the appeal proposals conflict with Policy CS5 and Policy CS34 given the Appeal Site's location outside of the settlement boundary of Wickwar. However, there is agreement here that these policies are out of date and should be afforded only limited weight. There is also conflict with the landscape aspects of Policy CP9, however, that conflict would appear to be an inevitable consequence of a greenfield development. Furthermore, to the extent that this policy is an important determinant in this Appeal, I note that the Inspector in the recent Thornbury appeal found this to be a most important policy for the determination of that appeal³⁷.
- 10.5 I find that Policy PSP2 (in respect of landscape impact) is more nuanced and, whilst there is some acknowledged harm, the policy allows development to come forward where the benefits of the proposals outweigh the harm and where harm is minimised and mitigated through the form of the development and where reasonable the provision of landscape enhancements. There are important benefits in this case that substantially outweigh any landscape harm in my view, and the Appeal Proposals have also been appropriately designed, considerate of the landscape character and with embedded landscape mitigation. I therefore conclude that the Appeal Proposals accord with PSP2.
- 10.6 In respect of heritage policies, it is the Appellant's case that there would be a very minor degree of less than substantial harm to a heritage asset (South Farmhouse). As such, there is some conflict with both Policy CS9 and PSP17. However, both policies are not compliant with the NPPF (as concluded Thornbury decision (**Core Document 5.1**)). Any conflict with the policies must, therefore, be afforded less weight in the balance.

³⁷ Paragraph 169 of **Core Document 5.1**

- 10.7 I also conclude that is no conflict with policies³⁸ in respect of ecology/biodiversity, the protection of SSSIs, the loss of best and most versatile agricultural land and accessibility.
- 10.8 Importantly, in terms of the overall Development Plan and the Appeal Scheme's accordance or otherwise with it, given that there is agreement in this case that the CS is out of date, the NPPF is clear that applications should be considered in the context of the presumption in favour of sustainable development. Policy CS4A of the CS also repeats this presumption. Policy CS4A requires permission to be granted unless the impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Development Plan and NPPF taken as a whole, or unless specific policies in the development Plan or Framework indicate that development should be restricted.
- 10.9 Against both Policy CS4A and paragraph 11 of the NPPF, my evidence concludes that there are no specific policies in the Framework (including those relating to heritage) that indicate the development should be restricted. Therefore, it is necessary to consider whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits. Those adverse effects would rightly include any adverse effects as a result of any conflict (and harm arising from that conflict) identified with other policies in the Local Plan, including the conflict my evidence identifies with Policy CS5, CS9, CS34 and PSP17.
- 10.10 The benefits of the proposed development are substantial and include the delivery of market homes, affordable homes and self/custom build housing, land for a shop and measures to secure its delivery, measures to secure an enhanced a viable bus service for the Appeal Development and Village as a whole along with other significant economic, social and environmental benefits.
- 10.11 When compared to the benefits, my evidence concludes that there are limited adverse effects in this case and they do not outweigh the significant benefits of the proposals, let alone significantly and demonstrably outweigh those benefits.
- 10.12 As a result, my evidence concludes that, when considering the Development Plan as a whole, and the application of Policy CS4A, the Appeal Development would accord with the Plan as a whole and that planning permission should be granted without delay. The Appeal Proposals would also accord with the requirements of paragraph 11 of the Framework as there are no adverse impacts that would significant and demonstrably outweigh the benefits in this case.
- 10.13 For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, I conclude that the Appeal Proposals accord with the Development Plan and the material considerations also support the grant of planning permission. On that basis, I respectfully request that the Appeal should be allowed and planning permission granted.

³⁸ Policies CS8, CS9, PSP18 and PSP19

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