

**APPEAL BY REDCLIFFE HOMES LTD**

**LAND SOUTH OF BADMINTON ROAD  
OLD SODBURY**

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**CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT**

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**KEY:** *XIC = Examination in Chief; XX = Cross Examination; Re X = Re-examination*

**Introduction**

1. At the end of this Inquiry, South Gloucestershire Council (“the Council”) has withdrawn its objection to the scheme and concedes that planning permission should be granted. It has finally become clear to the Council that this is a scheme that offers clear and significant benefits – not least some 35 new homes of which 12 would be urgently-needed affordable properties – set against remarkably minimal harm in practical or policy terms.
2. One important reason for this stark lack of harm is the extensive and positive engagement by the Appellant’s team with professional officers.<sup>1</sup> As Mr Stockdale identified in XX, Mr Kendrick has worked carefully with the Council to overcome all concerns, resulting in a scheme that is agreed to be “well-designed”, with no objection on the basis of landscape and no technical objections, from flood risk to air quality.
3. The Appellant is willing to make all contributions requested by the Council as part of the s.106 agreement; it is for the Council to demonstrate that they are CIL compliant. At the time of writing, a few small tweaks remain as regards the justification for the education contribution which may require a slight change in the drafting. However, the Inspector can

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<sup>1</sup> See §2.9 of Mr Kendrick’s Proof P1.1 which sets out the amendments to the final plans and documents to address comments received from consultees and the case officer.

be confident that a signed agreement will be achieved shortly after the Inquiry ends, in light of the cooperative approach being taken by both parties.

4. These Closing Submissions start by addressing the approach to the development plan, including the final positions on five year housing land supply (“5YHLS”). We then turn to the former reasons for refusal: settlement boundaries and accessibility. Finally, we address benefits and the planning balance.

### **Approach to the Development Plan**

5. The housing requirement and settlement boundary policies within the development plan (CS5, CS15, CS34, and PSP40) are all out-of-date, conceded by Mr Stockdale here and by Ms Paterson recently at the *Thornbury* appeal.<sup>2</sup> That is because those policies are based on an out-of-date, non-National Planning Policy Framework (“NPPF”) compliant assessment of housing needs and are not capable of accommodating sufficient development to meet the needs now.
6. Mr Stockdale in XX accepted the following, which falls in line with the detailed evidence on the development plan set out in Mr Kendrick’s Proof:<sup>3</sup>
  - i) the Core Strategy was submitted in March 2011, before the NPPF and its duty to cooperate;
  - ii) it was based on a non-NPPF compliant housing requirement that did not take into account the needs of the wider Bristol housing market area (“HMA”);
  - iii) the examining Inspector in 2013 required a review and a new plan to be in place by 2018, in light of the need to account for Bristol overspill;<sup>4</sup>
  - iv) as a matter of fact, that review has not occurred some 10 years on;
  - v) attempts at sub-regional planning have failed twice since;
  - vi) the Council still does not have a plan-led solution to housing development on a sub-regional basis;

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<sup>2</sup> Mr Stockdale and Closings for Thornbury at ID12f

<sup>3</sup> Mr Kendrick’s Proof at §§3.20, section 3.0 and 4.0

<sup>4</sup> EiP Report is at CD1.2 - see §72, §§83-86

- vii) the Core Strategy settlement boundary policies are now some 30 years old and have not been reviewed as intended to plan for housing delivering in rural areas;<sup>5</sup>
- viii) the strategy in the Core Strategy of directing development to urban areas and new neighbourhoods has disadvantaged the rural areas, and will be revisited in any future plan;<sup>6</sup>
- ix) failure to review the boundaries indicates that they are out-of-date and in conflict with the NPPF paras 33, 61 and 79<sup>7</sup>;
- x) there will be no allocations or boundary reviews to plan for future growth in rural areas in the short or medium term;<sup>8</sup>
- xi) nonetheless, rural growth is an important aspect of the expected forward strategy for the future local plan;<sup>9</sup>
- xii) on the ground, the Council has granted numerous planning permissions outside the settlement boundaries to boost housing supply, and currently relies on permissions outside the settlement boundaries (991 dwellings) to demonstrate a 5YHLS. Without those sites, the Council (on its own case) would not have a 5YHLS;<sup>10</sup>
- xiii) this shows the settlement boundaries are not capable of delivering the requisite growth according to current requirements, and so must be considered out-of-date;
- xiv) not only that, but any future plan-led housing requirement will be even higher, as the Council has a long-standing commitment to take a share of Bristol's overspill, a material consideration that Mr Stockdale agreed tells in favour of this scheme;
- xv) while we cannot be certain of the exact numbers, the Council accepted as part of the West of England Joint Spatial Plan ("JSP") process that it would accommodate a need of 1,625 dwellings per annum ("dpa");<sup>11</sup>
- xvi) that figure is higher than either the Core Strategy or the current single authority standard method figure being used;

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<sup>5</sup> CD 1.1 Core Strategy p.29 §4.27, CD 1.2 inspector report p.14 §66

<sup>6</sup> CD1.4, at §114, 116; CD1.7 para 176, 178, 187 and 190

<sup>7</sup> Agreed by Mr Stockdale in XX

<sup>8</sup> See CD1.8, p.9-10, adoption of the strategic policies in 2025 at the earliest.

<sup>9</sup> See CD1.8 LPDP at p.4 which provides that the emerging local plan will only deal with strategic matters. CD1.4 provides the future direction – see 114, 116; see also CD1.7 at p.176-178.

<sup>10</sup> In the revised HLS Scott Schedule ID13 the Council's case is that it has a surplus of 935 dwellings

<sup>11</sup> Estimated figures are set out in Mr Kendrick's Proof P1.1 at §§3.23-3.48 and §§4.11-4.23

xvii) applying the standard method and apportioning Bristol's overspill need in the same way the Council proposed the JSP should, would result in an even higher housing need figure – a total of some 42,000 houses over the period; and

xviii) the current boundaries simply do not account for those inevitable future increases in local housing requirements.

7. Overall, Mr Stockdale accepted that the settlement boundaries are not capable of meeting development needs and therefore must be considered out-of-date – as must the parts of policies CS15, CS5, CS34, and PSP40 that rely on those boundaries,<sup>12</sup> and with which a conflict is alleged in this case.
8. There are two implications. First, much reduced weight can apply to any conflict with those policies. Secondly, it is now common ground that the basket of most important policies for determining this appeal, comprising CS5, CS34, PSP40, and PSP11, is out-of-date, such that the tilted balance of paragraph 11(d) of the NPPF applies.<sup>13</sup> CS8 is not part of that basket – it was superseded by the more detailed PSP11, and the explanatory text (§7.16) makes clear that it does not apply to proposals of this kind.

### 5YHLS

9. In light of the concessions made by Mr Stockdale about the settlement boundary policies, whether or not there is 5YHLS has become something of a moot point. Nonetheless, the Appellant does still contend that there is no 5YHLS, another independent reason that the tilted balance is engaged. While the Council has withdrawn its evidence to the Inquiry, there has been no concession on the 5YHLS and so for completeness, we will therefore summarise the parties' positions at the close of Roundtable.
10. As always, the key dispute relates to the robustness of evidence of completions within the agreed period for monitoring, 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2026. Completions before or after those dates cannot count towards the 5YHLS.

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<sup>12</sup> Accepted by Mr Stockdale in XX

<sup>13</sup> Accepted by Mr Stockdale in XX

11. To be considered deliverable, Annex 2 of the NPPF provides that all sites should be available now, offer a suitable location for development, and be achievable with a realistic prospect of housing delivered within five years. Minor sites with planning permission and major sites with detailed permission can be considered deliverable unless there is clear evidence that homes will not be delivered within five years (Category A). Outline permissions for major development should only be considered deliverable where there is “*clear evidence*” completions will begin on site within five years, with the onus on the local authority to make its case (Category B).
12. It is that final point that was missing from the approach taken by the cast of Council Officers who spoke at the Roundtable – it is for them, not for Miss Curtis, to provide “clear evidence” that such sites will in reality complete in the timescale and numbers contended. This requires strong, cogent evidence and a realistic assessment of all relevant factors relating to delivery (including planning, technical, legal, and commercial) – not simply unquestioning acceptance of developers’ assertions.<sup>14</sup>
13. Where the Council has failed to provide clear evidence, Miss Curtis has taken the sensible approach of assuming national averages apply, resulting in lead in times of circa 2 years from the date of approval of reserved matters to completion of first dwellings and build out rates of 50 dpa.<sup>15</sup>
14. Following the Roundtable discussion, some **1,465** units remain in dispute:

*Detailed planning permission – full or outline and reserved matters approved:*

**i) 0021b – Land at Harry Stoke – 136 dwellings in dispute**

- As explained by Miss Curtis,<sup>16</sup> the aerial photographs from May 2021 show some 106 houses occupied, with gardens laid out and cars in driveways. The houses must have been substantively complete before

<sup>14</sup> As decided by the Inspector at Sonning Common Core Document CD6.1. See Miss Curtis’ Proof P.14 at §§2.11-2.17

<sup>15</sup> Miss Curtis’ Proof P.14 at §2.21, §§2.25-2

<sup>16</sup> §§4.6 – 4.18 of Miss Curtis’ Proof and §§3.1-3.9 and Figure 1 of Miss Curtis’ Rebuttal

April 2021. Mr Jones accepted that the photographs show a substantial number of occupied dwellings, with his best guess being 80.

- Ms Blakemore said she could not get to the dwellings on site in April 2021 because the roads were blocked on that day. As such, she was not able to assess their state of completion.
- In light of the latest evidence on build out rates, Miss Curtis accepted an additional 48 units (based on an addition of 16/year) could be added to the supply. Historically, Crest Nicholson have delivered circa 70/year, so no more can be added. Some 136 dwellings remain in dispute.

**ii) 0133af – Land at North Yate (PL15a, PL16) – 88 dwellings in dispute**

- Similar considerations apply here. The aerial photographs show that in July 2021 some 88 properties were occupied, with parked cars and laid out gardens.<sup>17</sup> As Miss Curtis pointed out, it would be an unusually short window to move in so many occupants, if none of these dwellings were complete before April 2021. Mr Kendrick explained that developers are financially incentivised to move people in quickly.
- The Council had no substantive answer to the point, with Mr Stockdale simply asserting that “*we want to stick to our figure*” and Ms Blakemore repeating that the houses were not counted in previous years.

**iii) 0133al – Land at North Yate (PL15c & PL16) – 52 dwellings in dispute**

- It is now clear that there will be some time before any completions on this site. The Council relies on the developer’s *pro forma* that says 157 units will nonetheless be built in a five-year period, achieved by upping the build out rate from the 35 dpa initially proffered.
- However, as Miss Curtis explained, applying the decision in *Sonning Common*, mere statements by the developer are not the answer.<sup>18</sup> On this site, there is simply not a sufficient evidential basis to accept that the build out rate will increase before delivery commences.<sup>19</sup>

**iv) 0134aa – Land at Cribbs Causeway (Berwick Green/Haw Wood) – 37 dwellings in dispute**

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<sup>17</sup> Miss Curtis’ Rebuttal Proof §§3.22-3.25 and Figure 6.

<sup>18</sup> CD 6.1 at §§19-21

<sup>19</sup> Miss Curtis’ Rebuttal Proof at §3.28

- It is now common ground that housebuilding has not commenced here. Given the developer's stated plan to launch in 'winter' with no more specific timescale, and the limited infrastructure on the site, Miss Curtis considers it remains unrealistic to assume any units at all will be completed by April, which will push the trajectory back by one year.

**v) 0251 – University of West of England – Phase 1 & 0252 – Block B Cheswick Village – 307 dwellings in dispute**

- The Council asserts that the units will free up wider market housing and so should be included in the land supply. However, there has been no assessment and no evidence as to how or to what extent student accommodation will release such housing.<sup>20</sup> Ms Blakemore and Mr Stockdale both accepted that the Council has no evidence regarding the effect on wider market.
- On that basis, all 307 units (270 + 37) should be deducted from the supply.

**vi) 0133ak Land at North Yate (PL7, 8, 9 & 11) – 43 dwellings in dispute**

- Miss Curtis has fairly applied a build out rate of 80 dpa, using previous delivery rates by Barratt Homes over the last four years (including the Council's recent completion figures provided only at exchange of evidence, but clearly available before the Inquiry).<sup>21</sup> She accepted that, based on the RM permissions, an additional 40 units can be delivered, leaving a dispute over 40.

**vii) 0133an Land at North Yate (PL19, 20, 28 and 29) – 40 dwellings in dispute**

- Miss Curtis was clear that the Council's case is unrealistic, by referring to the previous completion rates of the developer and her analysis that when one looks at the delivery rates across the development, 0333ah will be built out before David Wilson moves onto this site.
- As such, while Miss Curtis accepted some 60 dwellings into the supply, the Council's 100 figure is not backed by the evidence. As with several

<sup>20</sup> §§4.80-4.87 of Miss Curtis' Proof P1.4 and Miss Curtis in the Roundtable

<sup>21</sup> §§4.48 – 4.52 of CC's PoE and paragraphs §§3.16 – 3.21 of CC's Rebuttal

other sites, the Council simply relied on the assertion of the developer in Appendix G, with no corroborating information or analysis.

Pending full application:

i) **0036ca – Land at Lyde Green Farm – 50 dwellings in dispute**

- In the Roundtable, the Council provided no new evidence of progress towards the approval of the re-application and no updates have occurred on the Council's website since March 2021.<sup>22</sup> There is no written agreement from the developer confirming build out rates, and in all it is not clear that any dwellings will be built within the five years.<sup>23</sup>
- Miss Curtis highlighted that concerns remain, in particular it was conceded that the ecology work is now out-of-date, generating further uncertainty about timelines given seasonality constraints.

ii) **0135d East of Harry Stoke (Residual Land) – 100 dwellings in dispute**

- Here, Miss Curtis' fundamental concern with the full application is that part of the site is designated as Green Infrastructure, and it is unclear whether the planning policy team find this acceptable. In addition, she noted objections from highways, public open space and urban design.<sup>24</sup>
- As to the outline application, the evidence does not suggest any units will be delivered within five years, given the Council's own timetable.<sup>25</sup>
- Mr Jones agreed that the Planning Performance Agreement does not provide the requisite certainty.

Pending reserved matters application:

i) **0021c – Land at Harry Stoke – 50 units in dispute**

- The Council sensibly acknowledged that, in consistency with their approach at another recent appeal, some 75 houses needed to be taken out of the supply, leaving 50 in dispute.
- However, Miss Curtis explained that there remains serious uncertainty as to timescales in light of the electricity pylon going across the site. The

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<sup>22</sup> As was the position in Miss Curtis' Proof P1.4 at §4.47

<sup>23</sup> Miss Curtis in the Roundtable

<sup>24</sup> §§3.10 – 3.15 of CC's Rebuttal Evidence

<sup>25</sup> Miss Curtis in the Roundtable



response that negotiations are progressing does not provide the clear evidence required for a site like this where the onus is on Council.

**ii) 0134ab – Parcels 14-19, Land at Cribbs Causeway (Berwick Green/Haw Wood) – 144 units in dispute**

- Miss Curtis has reasonably relied on national average delivery rates of 50 dph and evidence from Lichfields which indicates circa 2 years from approval of RM to recorded first completions, rather than the bare assertion of the developer. Again, as with other sites addressed already, there is simply not the clear evidence to make out the Council's case.

**iii) 0134ba – Land at Wyck Beck Road and Fishpool Lane – 0 units in dispute**

- The Council has now accepted the Appellant's position, and it is common ground that only 136 rather than 235 units can be added to the supply.

*Sites with outline planning permission:*

**i) 0133 – Land at North Yate – 200 units in dispute**

- Miss Curtis considers that applying past build out rates and projected dates of reserved matters applications, there is no clear evidence that this site will deliver within five years.<sup>26</sup> Again, the onus is on the Council, which has simply not provided persuasive information to back up its view.

**ii) 0134b – Cribbs/Patchway – Wyck Beck Road/Fishpool Lane – 0 units in dispute**

- The Council has now accepted the Appellant's position, and it is common ground that no units can be added to the supply from this site.

**iii) 0134c – Cribbs/Patchway – Former Filton Airfield YTL – 115 units in dispute**

- The Council accepted that its best case in light of the timelines in Appendix Q is that 145 dwellings can be included (down from 300).
- However, Miss Curtis considers the number should be far lower, in the region of 30-40, in light of: the fact that the application was only validated in September 2022; the time it will take to obtain RM approval; and lead in times that may be required. This leads to a sensible estimate of 30-40

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<sup>26</sup> See §§4.48 – 4.52 of CC's PoE and §§3.16 – 3.21 of CC's Rebuttal

units in 2025-2026 (noting this is YTL's first major development in the UK).

**iv) 0135a – New Neighbourhood – East of Harry Stoke – Crest (south of railway) – 0 units in dispute**

- The Appellant accepted that 55 units can be added to the supply in light of Mr Jones' explanation that the third party land issue had been resolved.

**v) 0135b – New Neighbourhood – East of Harry Stoke – Council land (north of railway) – 50 units in dispute**

- The Council in the Roundtable conceded that there will be no delivery in 2024-2025, leaving just one year at the end of the monitoring period. The problem for the Council is that there is no RM application, nor any evidence of progress towards this.<sup>27</sup> The outline permission allows for up to 10 years for RM.
- Miss Curtis was clear that without agreement from the developer stating when they intend to submit or further progress with the assessment work, the evidence does not show clearly that any units can be delivered.

**vi) 0135da New Neighbourhood – East of Harry Stoke (Land off Old Gloucester Road) – 53 units in dispute**

- Finally, the Council certainly does not have clear evidence that any dwellings can be delivered in the requisite timeframe at this site, given there is no developer lined up to buy the site. While there have been some enquiries, these have fallen through – suggesting there may remain issues to be resolved.
- In Miss Curtis' view, lack of progress towards an application for reserved matters means there is simply insufficient evidence that homes will be delivered within five years.<sup>28</sup>
- Mr Kendrick also pointed out that it can often take a whole year to negotiate land value before a sale goes through – as such, without a developer in place it is exceedingly optimistic of the Council to consider reserved matters could take place within a year.

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<sup>27</sup> See Miss Curtis Proof P1.4 at §§4.36 – 4.27

<sup>28</sup> §§4.38 – 4.39 of Miss Curtis Proof P1.4

15. The Council's best case is that it has a deliverable supply of 8,222 houses (including the student homes), leaving a surplus of 935. The result is a marginal 5YHLS of **5.64 years**. However, in light of the evidence, Miss Curtis concludes that there is realistically only a deliverable supply of 6,757 homes, leading to a HLS of just **4.64 years**.

*Conclusion on approach to Development Plan*

16. In all, it is now common ground that the basket of most important policies for determining this appeal are out-of-date, and as such the tilted balance applies by virtue of 11(d) of the NPPF. Not only that, Miss Curtis also concludes that the Council has no 5YHLS, a second independent reason that we are in tilted balance territory. Accordingly, both parties now agree that the Inspector should grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

17. It is to the originally alleged adverse impacts that we now turn.

**Settlement Boundaries**

18. The Appellant accepts that the appeal site is not within the defined settlement boundaries and is not one of the exceptions listed in in PSP40. As such, there is an inevitable degree of conflict with parts of CS34, PSP40 and CS5.

19. However, Mr Stockdale fairly accepted that the conflict is only partial – the scheme meets favourably with all criteria in CS34 other than the settlement boundaries at (5).<sup>29</sup> Those criteria touch issues including character and appearance, landscape, agricultural land, biodiversity, protection of the Green Belt, facilitation of home-working, public open space and drainage.<sup>30</sup>

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<sup>29</sup> Mr Stockdale in XX

<sup>30</sup> §§5.5-5.19 of Mr Kendrick's Proof P1.1

20. For all the detailed reasons set out above, the settlement boundary policies are agreed to be out-of-date. Furthermore, it is also now common ground that no harm arises from the policy conflict.<sup>31</sup> Indeed, Mr Stockdale accepted that if the proposal is considered sustainable in PSP11 terms – something squarely accepted by the witness he relies on, Mr Kidd – then rfr 1 falls away.<sup>32</sup> As such, the Council no longer maintains any objection to the scheme on settlement boundary grounds.
21. Even before Mr Stockdale’s evidence, Mr Kendrick had concluded that breach of the settlement boundary policies could only be given very minor weight in the planning balance.<sup>33</sup>

### **Sustainability**

22. PSP11 is the critical measure by which the development should be considered in terms of sustainability.<sup>34</sup> While Mr Kidd refers to Manual for Streets and the Chartered Institution of Highways and Transportation (“CIHT”) guidance in his Proof, they cannot displace the primacy of that policy. Indeed, PSP11 was adopted in light not only of those guidance documents but also post-NPPF: it is the local expression of all of those considerations encapsulated in development plan policy.<sup>35</sup>
23. At the end of the Inquiry, it is common ground with the Council that the proposal complies with PSP11, and as such should be considered sustainable.<sup>36</sup> Occupants would have reasonable access to facilities and services by way of a combination of walking, cycling, and public transport, and a genuine choice of non-car travel.

### **Approach to PSP11**

24. First, it is “*abundantly clear*” from a straight reading of 3(i) and (ii) of PSP11 that a proposal can comply where some key services are not accessible by foot or bicycle, so long

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<sup>31</sup> Mr Stockdale and Mr Kidd in XX

<sup>32</sup> Mr Stockdale in XX

<sup>33</sup> Mr Kendrick Proof P1.1 at §5.19

<sup>34</sup> Agreed by Mr Kidd in XIC

<sup>35</sup> Agreed by Mr Kidd in XX

<sup>36</sup> As per Mr Kidd in XX

as there is an appropriate public transport option for the remainder.<sup>37</sup> Sensibly, given the approach the Council has adopted in other appeals, Mr Kidd agreed this is the correct interpretation: PSP11 incorporates flexibility to look to the bus where necessary.<sup>38</sup>

25. Secondly, the “*distance guidelines*” for walking and cycling in the supporting text must themselves be read flexibly, not as binary requirements.<sup>39</sup> PSP11 was adopted in light of the mandate in national policy to take into account different opportunities for sustainable transport between urban and rural areas.<sup>40</sup> The supporting text to PSP11 at §5.22 is clear that the distances are only a “starting point”. This was eventually conceded by Mr Kidd, who accepted that the distances can only be an indicator, guidelines, or a starting point.<sup>41</sup>

26. Thirdly, as regards bus provision, again a judgment is required, and the frequencies set out under §5.24 represent a balance the development plan has struck across rural and urban areas of South Gloucestershire. Mr Kidd accepted that given that balance, PSP11 wholly expects gaps between services, some inevitable waiting for buses, and a need to plan journeys in advance – these are not seen as disadvantages in terms of the policy.<sup>42</sup>

### Application of PSP11

27. Turning then to the sustainability credentials of this particular scheme in light of what PSP11 requires.

28. First, the Council now accepts that the site is within the suggested walking or cycling distances for a **majority (6/11)** of key facilities and services at §5.23, including the village hall and the Hatters Lane employment facility.<sup>43</sup> It is also relevant to note the Travelwest evidence suggesting an average round trip cycle of 11 miles and walk of 3 miles to work –

<sup>37</sup> Mr Kendrick’s Proof P1.1 §§6.12-6.13

<sup>38</sup> Mr Kidd in XX. See in particular P19/14956/F Tytherington [CD7.4] P20/06928/O Rangeworthy [CD7.2], P19/2575/F – Yate/Engine Common [CD7.1] for the Council’s two-part approach

<sup>39</sup> Reference to guidelines is at §5.20 of the supporting text to PSP11, the distance table is after §5.23

<sup>40</sup> NPPF §105, Agreed by Mr Kidd in XX. He also agreed that while the extant version of the NPPF at the time was the 2012 version, there have been no significant changes on this issue in national policy since.

<sup>41</sup> This accords with how Mr Kendrick has always interpreted PSP11 – see e.g. §§3.70-3.72 of his Proof P1.1

<sup>42</sup> Mr Kidd in XX

<sup>43</sup> Mr Kidd in XX

within which distances future occupants could find a range of employment opportunities, from Chipping Sodbury to Yate.<sup>44</sup>

29. Accordingly, Mr Kidd acknowledged that he was wrong in his Proof to assert that “*the overwhelming majority of key facilities and service are beyond the PSP11 thresholds*”.<sup>45</sup> Furthermore, while Mr Kidd’s Table 2.1 had initially set out 13 rather than 11 categories, it became apparent in XX that he had for some unknown reason unjustifiably departed from the policy by including a dentist and splitting out the shop/town centre category.
30. As to the minority of services not within the guideline walking or cycling distances, Mr Kidd agreed with Mr Tingay that (a) people will often cycle considerably further than they walk, with all key services and facilities within easy cycling distance here, and (b) supermarket shopping is often done by car in any event, due to the volume and weights.
31. Secondly, the routes west and east from the appeal site are safe and suitable and would not deter future occupants from walking or cycling, although it is recognised that some will choose not to. The details of widths, verges, and lights are set out in Mr Tingay’s Proof – and it is not proposed to repeat that material, as the Inspector will have seen the routes on site to form his own judgement.<sup>46</sup>
32. Mr Kidd in XIC raised two concerns regarding quality of the routes: the condition (pointing to tree roots, sunken parts, and trip hazards) and the lighting. As to condition, the issues identified by Mr Kidd are exactly the sort of “maintenance” the Highways Authority is responsible for – from cutting back overgrown vegetation, to fixing potholes. As to lighting, Mr Kidd agreed that one unlit stretch does not make the road dangerous, but may affect perceptions of danger.<sup>47</sup> Yet, he also accepted that the best evidence of use of the Badminton Road before the Inquiry is the Strava data,<sup>48</sup> which shows a “*high and consistent level of cycling usage*”, with more than a thousand cyclists using the Badminton road this year, and the road as popular for walkers/runners as the Cotswold Way.<sup>49</sup> The Council has

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<sup>44</sup> Mr Kidd in XX

<sup>45</sup> Mr Kidd in XX. The passage to be struck out is from §3.1.9 of Mr Kidd’s Proof

<sup>46</sup> The key passages are in Mr Tingay’s Proof P1.6 at §§2.31-2.47

<sup>47</sup> Mr Kidd in XX

<sup>48</sup> Mr Tingay’s Proof P1.6 at §§2.59-2.63 and Mr Tingay’s Appendix F

<sup>49</sup> Mr Kidd in XX

not requested a s.106 contribution for improvements to these footways or cycling infrastructure.

33. It is also of note that in the context of some 65,000 recorded Strava cycling trips, there has been one cyclist collision and no pedestrian collisions.<sup>50</sup> Mr Kidd accepted that those figures suggest this road is safe for cycling.<sup>51</sup> Mr Tingay was clear that the collision history does not indicate any fundamental problem with the highway (the car collisions were largely due to driver fault).<sup>52</sup> In his clear view, the road is straight and wide and does not have excessive speeds: in all, future occupants could cycle or walk to Chipping Sodbury safely.<sup>53</sup> If cyclists do want an alternative route, they can go north onto the much quieter Commonmead Lane.<sup>54</sup> Although Mr Kidd was critical of the Strava data, he had not made any attempt to seek clarification in respect of it, or taken steps to interrogate it himself.

34. Thirdly, Mr Kidd accepted that to reach those services outside the recommended walking/cycling distances, the appeal site has the benefit of an appropriate bus service that fully complies with PSP11. Indeed, Mr Kidd agreed in XX that:<sup>55</sup>

- i) the site is very close to the bus stops (within 50m compared to the policy requirement of 400m), an attractive opportunity to residents;
- ii) journey times to Chipping Sodbury and Yate are well under the suggested 1 hour – they are a matter of minutes;
- iii) the 620 service alone is compliant with the frequencies required by PSP11, and the four daily services to Malmesbury are an added bonus;
- iv) the services on Saturday are in excess of the requirement for weekend services;
- v) there are services arriving at the destination before 9am and leaving after 5pm;
- vi) in all, bus provision at a frequency of 13 services a day “*well exceeds*” the PSP11 requirements, being nearly triple the minimum; and

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<sup>50</sup> Mr Kidd in XX

<sup>51</sup> Mr Kidd in XX

<sup>52</sup> Mr Tingay in XIC

<sup>53</sup> Mr Tingay in XIC

<sup>54</sup> Accepted by Mr Kidd in XX

<sup>55</sup> See also the analysis at §§2.64- 2.81 of Mr Tingay’s Proof P1.6

vii) any deficiencies in a future occupant's ability to walk or cycle would be adequately compensated for by the local bus service.

35. Mr Tingay considers that in light of all these factors, the bus provision is not only better than what is required by PSP11, it offers a realistic opportunity to access key services and facilities by sustainable means.<sup>56</sup>

36. As to §5.25 of the explanatory text, which says that larger and more bus-dependent developments require a better service, Mr Kidd accepted squarely that the service at the appeal site "well exceeds" the requirements, and that this is also a "relatively small" development.<sup>57</sup> Mr Tingay agreed this is not a large scheme in transport terms.

37. Mr Kidd also raised a concern about the future of the bus routes in light of an ongoing review. However, he finally accepted that it is on the existing PSP11-compliant bus provision that the Inspector should base his decision, and not the future unknown.<sup>58</sup> That is because: the review is occurring across the entirety of South Gloucestershire, so applies to every site; there is no evidence that the buses will actually be reduced; and all bus services – whether publicly funded or private – up and down the country are subject to changing circumstances, from budget cuts to shifting travel patterns.

38. Fourthly, Mr Tingay has also noted a number of important trends that point towards a decreasing reliance on the private motor car.<sup>59</sup> This scheme is located in an area with fibreoptic broadband, and it has been specifically designed with home-working in mind, with additional socket and phone connections and lighting to allow one bedroom to be used as a home office (for those house types that do not have a specific study).<sup>60</sup> Mr Kidd also acknowledged a trend towards home deliveries for supermarket shopping. One van delivers many houses' shopping – inherently more sustainable than lots of households making individual car journeys to and from supermarkets.<sup>61</sup> The site also has strong electric vehicle

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<sup>56</sup> Mr Tingay in XIC

<sup>57</sup> Mr Kidd in XX

<sup>58</sup> Mr Kidd in XX

<sup>59</sup> Mr Tingay's Proof P1.6 at §§2.83-2.89

<sup>60</sup> Mr Kendrick's Proof P1.1 at §5.15

<sup>61</sup> Rather like a bus for food shopping



credentials: charging points are proposed for all dwellings, in excess of current policy requirements.<sup>62</sup>

39. Fifthly, both witnesses agreed it is relevant when considering the sustainability of the site to consider its proximity to Chipping Sodbury, an advantage over more remote villages. Even if short journeys are undertaken by car, that is better than longer ones.<sup>63</sup> The point is to offer people genuine choice, and not to forbid any car usage at all.
40. Finally, it is also important to note that the Council's own emerging evidence base prepared in connection with the local plan supports the conclusion that Old Sodbury is a sustainable location for residential development of the scale proposed here.<sup>64</sup> In particular, the 2022 Phase 2 Consultation<sup>65</sup> underpinned by a report by Arup<sup>66</sup>, includes Old Sodbury as a settlement to be investigated for growth. Mr Stockdale accepted that the Consultation envisages growth in settlements similar to Old Sodbury of up to 100 houses.<sup>67</sup> Within the Arup report, Old Sodbury falls in the upper half of those settlements assessed in sustainability terms, with a score of 6.<sup>68</sup>
41. In sum, Mr Kidd fairly accepted that: PSP11 allows flexibility of walking, cycling or bus access to services; at the appeal site the majority of key services are reachable by foot or bicycle; and the bus service is well in excess of the policy requirements for those services that remain. It has always been the consistent position of Mr Tingay and indeed Mr Kendrick that the scheme offers a good range of everyday services and facilities within sustainable travel distances, meeting favourably with policy PSP11.<sup>69</sup> At the close of the Inquiry, the position has finally become common ground with the Council.

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<sup>62</sup> See §7.13 of Mr Kendrick's Proof P71.1

<sup>63</sup> Agreed by Mr Kidd in XX and Mr Tingay in XIC

<sup>64</sup> See Mr Kendrick's Proof P1.1 at §§6.27-6.33

<sup>65</sup> CD1.7 Spring 2022 Consultation Phase 2 Urban, Rural and Key Issues – see p.187

<sup>66</sup> CD8.5

<sup>67</sup> Mr Stockdale in XX, see the groupings at p.90 of CD1.7

<sup>68</sup> Last page of CD8.5, accepted by Mr Stockdale in XX

<sup>69</sup> Mr Tingay's Proof P1.6 at §§6.4-6.6. Mr Kendrick's Proof P1.1 at §6.10 and §6.26

## **Benefits and Planning Balance**

42. In these circumstances, the tilted balance is engaged either by reason of the basket of most important policies being out-of-date or a lack of a 5YHLS. Applying that tilted balance, this is obviously a case where the adverse impacts come nowhere near a point of demonstrably outweighing the clear and substantial benefits of the scheme.
43. The need for market housing is addressed in some detail in Mr Kendrick's Proof.<sup>70</sup> As above, Mr Stockdale accepted that the Council's housing requirements will inevitably increase when a new plan is finally adopted, in light of the commitment to take a share of Bristol's overspill.<sup>71</sup> Mr Stockdale also accepted that the Council's anticipated delivery over the plan period to 2027 will mean that, even by their own admission, they will fail to meet the adopted housing requirement set out in the Core Strategy.<sup>72</sup> Mr Kendrick considers that the evidence points to a need to significantly boost delivery above the levels that the Council are currently accommodating and planning for.<sup>73</sup>
44. As for affordable housing, it is now common ground that there is a "*serious and significant*" shortfall in South Gloucestershire, even taking at face value the untested anticipated future delivery outlined by Ms Cox at the Roundtable.<sup>74</sup> Even if the Council delivers 2,500 affordable homes over the next five years, it was accepted that this would not "*scratch the surface*" of the problem, in light of the accrued backlog of approximately 2,096 homes and the 4,059 households already in need on the housing register.<sup>75</sup> The Inspector will note that the majority of the affordable housing provision proposed here is social-rented, the best provision for those in the greatest need.<sup>76</sup> Both Mr Stockdale and Mr Kendrick conclude that the provision of some 12 affordable homes at this site is a significant material consideration weighing in favour of the scheme – with Mr Kendrick considering it to be "*substantial and compelling*".<sup>77</sup>

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<sup>70</sup> section 4.0 of Mr Kendrick's Proof at P1.1

<sup>71</sup> Mr Stockdale in XX

<sup>72</sup> The figures are at §4.5 of Mr Kendrick's Proof P1.1. The LPA anticipate delivering 21,364 dwellings over the plan period – a shortfall of 1,181 homes up to 2027

<sup>73</sup> Mr Kendrick's Proof P1.1 at §4.24

<sup>74</sup> Accepted by Mr Stockdale in XX. The detail is set out at Mr Kendrick's Proof P1.1 §§4.27-4.47

<sup>75</sup> Agreed by Mr Stockdale in XX. See Mr Kendrick's Proof P1.1 at p.30 and at §4.37

<sup>76</sup> Agreed by Mr Stockdale in XX

<sup>77</sup> Mr Stockdale in XX, Mr Kendrick's Proof P1.1 at §§4.46-4.47

45. Mr Stockdale accepted in XX the following revised weighting of the scheme's benefits, with "significant" being the top end of his scale:<sup>78</sup>

- i) affordable housing should get significant (the highest) weight;
- ii) market housing should get moderate-significant weight;
- iii) economic benefits should get moderate weight;
- iv) traffic calming measures and highway benefits should get low-moderate weight.

46. That does not differ greatly from Mr Kendrick's analysis, which is<sup>79</sup>:

- i) affordable housing – very substantial weight;
- ii) market housing – substantial weight;
- iii) economic benefits of construction jobs – moderate weight;
- iv) highways improvements – moderate weight.

47. Mr Kendrick also gives additional minor positive weight to the financial contributions of the scheme, use of lower quality agricultural land, and the public right of way improvements. The reasoning is set out in his Proof.<sup>80</sup>

48. As to adverse effects, at the close of the Inquiry, the Council's case is that the only harm to weigh in the balance is the less than substantial heritage harm at the lower end of the scale. While "great weight" must be given to conservation of the heritage assets (§199 of the NPPF), Mr Stockdale considers that the low scale of harm itself here only attracts very limited weight in the planning balance.<sup>81</sup>

49. Prior to the Inquiry, Mr Kendrick considered that it was "almost inconceivable" that the harm then identified could significantly and demonstrably outweigh the considerable benefits the appeal proposals would deliver.<sup>82</sup> At the close of the Inquiry, that is now surely wholly inconceivable.

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<sup>78</sup> Mr Stockdale in XIC, XX and in his Proof

<sup>79</sup> Mr Kendrick's Proof P1.1 at §9.13

<sup>80</sup> See §§7.6-7.21 of Mr Kendrick's Proof P1.1

<sup>81</sup> Mr Stockdale in XX – see also the position set out in the heritage SoCG S1.2

<sup>82</sup> Mr Kendrick's Proof P1.1 §9.15 – this was before the Council conceded on the two rfr

## **Conclusion**

50. In conclusion, it is abundantly clear that there is only a very limited impact to be weighed against a number of very significant benefits in social, economic, and environmental terms. Chief among them, but certainly not exclusively, is the provision of much needed market and affordable housing.

51. By the close of the Inquiry, Mr Kidd had accepted that the scheme complies with PSP11, and Mr Stockdale had accepted that in light of that concession, this scheme should get consent – whether or not the Council can demonstrate a 5YHLS.

52. Accordingly, the Inspector is asked to grant permission for this proposal, subject to appropriate conditions.

**18<sup>th</sup> November 2022**

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