



---

## Appeal Decision

Inquiry Held on 29, 30 September; 4, 12-14, 28 October 2022

Site visits made on 28 September and 11 October 2022

**by Christina Downes BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 February 2023**

---

**Appeal Ref: APP/P0119/W/21/3288019**

**Land to the west of Park Farm, Thornbury, South Gloucestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Barwood Development Securities Ltd and the North-West Thornbury Consortium against South Gloucestershire Council.
  - The application, Ref PT18/6450/O, is dated 18 December 2018.
  - Erection of up to 595 dwellings (Use Classes C3); land for a primary school (Use Class D1); up to 700m<sup>2</sup> for a retail and community hub (Use Classes A1, A2, D1); a network of open spaces including parkland, footpaths, allotments, landscaping and areas for informal recreation; new roads, a sustainable travel link (including a bus link), parking areas, accesses and paths; and the installation of services and drainage infrastructure
- 

### DECISION

1. The appeal is allowed and outline planning permission is granted for the erection of up to 595 dwellings (Use Classes C3); land for a primary school (Use Class D1); up to 700m<sup>2</sup> for a retail and community hub (Use Classes A1, A2, D1); a network of open spaces including parkland, footpaths, allotments, landscaping and areas for informal recreation; new roads, a sustainable travel link (including a bus link), parking areas, accesses and paths; and the installation of services and drainage infrastructure on land to the west of Park Farm, Thornbury, in accordance with the terms of the application, Ref PT18/6450/O, dated 18 December 2018, and the plans submitted with it. This is subject to the conditions in the Schedule in Annex C to this decision.

### PROCEDURAL MATTERS

2. The application was originally submitted for up to 630 dwellings but following post-submission discussions with the Council and consultees there were various changes made, including the reduction in housing number. The description set out above is agreed between the Council and the Appellants in the Statement of Common Ground (SCG) on Planning.
3. The application was submitted in outline form with all matters save for access reserved for future consideration. However, plans for determination at this stage include a Land Use and Access Parameter Plan, a Scale Parameter Plan, a Green Infrastructure Parameter Plan and a Sustainable Travel Link Plan. There is also an illustrative Masterplan and illustrative Landscape Masterplan.

4. The proposal is Environmental Impact Assessment development. An Environmental Statement (ES) has been submitted. I am satisfied that this meets the relevant statutory provisions, including publicity and is adequate in terms of its scope.
5. The Council determined that it would have refused planning permission had it been in a position to do so. The putative reasons for refusal related to harm to heritage assets; loss of high-grade agricultural land; development within the countryside and outside the settlement boundary of Thornbury; and the lack of a legal agreement to secure required mitigation. A Planning Obligation by Unilateral Undertaking (the UU) has been submitted that addresses the Council's concerns on the latter. This is considered later in the decision.
6. Following discussion at the inquiry there were several changes to the UU. A short period was allowed for these to be done and for the document to be signed. The engrossed Deed was submitted on 3 November 2022.

## **REASONS**

### **ISSUE ONE: WHETHER THE LOCATION OF THE APPEAL SITE OUTSIDE THE SETTLEMENT BOUNDARY OF THORNBURY WOULD BE HARMFUL TO THE SPATIAL STRATEGY IN THE DEVELOPMENT PLAN**

7. There is no dispute that the appeal development would be on a greenfield site outside the settlement boundary for Thornbury. The land in question lies to the north-west of the town and to the south of Oldbury Lane.
8. Policy CS5 sets out the spatial strategy in the *South Gloucestershire Local Plan Core Strategy 2006-2027* (the CS), adopted in 2013, and seeks to concentrate housing development within the north and east fringes of Bristol. Outside these areas, development is mainly directed to Yate, Chipping Sodbury and Thornbury in order to improve the self-containment of the settlements and strengthen their vitality. The settlement boundary for Thornbury is drawn around the built-up area but includes two opportunity areas at Park Farm and Moreton Way. These are now largely built out.
9. Policy CS34 indicates that the settlement boundaries around rural settlements should be maintained unless they are reviewed through Neighbourhood Plans, the *Policies, Sites and Places Development Plan Document* (the PSP DPD) or a replacement local plan, following local and stakeholder engagement. The *Thornbury Neighbourhood Development Plan* (the NDP), made in 2017, and the PSP DPD, adopted in 2022, do not contain any such review and the *South Gloucestershire New Local Plan* (the emerging Local Plan) is at a very early pre-submission stage.
10. 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.

11. 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.
12. In the circumstances, the housing requirement in the CS and the settlement boundaries that depend on it, is not compliant with the Framework and is out-of-date. This is regardless of the five year housing land supply position, which I consider later. This means that the fact that the proposed development would be within the countryside and outwith the settlement of Thornbury is a matter of limited weight. It is noted that the Council has itself granted planning permission for several housing developments on greenfield sites adjoining the built-up area of Thornbury. That does not have any effect on the statutory nature of the relevant policies, but it does mean that the conflict with those policies is a matter of reduced importance.
13. Policy CS5 seeks to strictly limit development in the countryside. However, it is also relevant that this policy includes a provision relating to Thornbury that seeks an appropriate scale of development to revitalise the town centre and strengthen community services and facilities. Policy CS32 specifically relates to the town and is based on a vision that it will become a thriving and socially cohesive historic market town. From my observations and from the available information it is clear that the revitalisation of the town has not yet been successfully achieved, notwithstanding the new development that has taken place thus far.
14. The Council did not dispute that the new population from the proposed development would have the potential to boost local spending and increase footfall within the town centre, although this is of course within the context of difficulties faced by High Streets nationally due to factors such as competition from online shopping. In addition, there would be various benefits flowing from the scheme itself, including a new nursery and primary school and a retail/ community hub with the potential to serve the northern part of Thornbury. This would improve choice for the existing population as well as for new residents, thus having a positive effect on the town and helping realise the vision.
15. I note that several local objectors considered that the appeal proposal is premature and contrary to local democracy. However, the Framework makes clear that amongst other considerations such arguments are unlikely to be justified unless the emerging Local Plan is at an advanced stage. As considered above, that is not the position in this case. The proposed development would be contrary to policies CS5 and CS34 in the CS. However, for all of the above reasons I conclude that the location of the appeal site outside the settlement boundary of Thornbury and the conflict with these policies would only cause limited harm to the spatial strategy in the development plan.

## **ISSUE TWO: THE EFFECT OF THE PROPOSAL ON HERITAGE ASSETS**

16. Policy CS9 in the CS indicates that the natural and historic environment is a finite and irreplaceable resource. In order to protect and manage resources in a sustainable way, new development will be required to conserve, respect and enhance heritage assets in a manner appropriate to their significance. Policy PSP17 in the PSP DPD seeks to protect and where appropriate enhance or better reveal the significance of heritage assets. It indicates that where development would cause harm to the significance of a heritage asset or its setting planning permission will only be granted where public benefits would outweigh the harm, amongst other things.
17. The relevant designated heritage assets are the Thornbury Castle assemblage, the Church of St Mary the Virgin, Sheiling School and Thornbury Conservation Area. These are sited to the south of the appeal site and any effect on their significance arising from the appeal development would derive from changes to their setting. There was no dispute that any ensuing harm would be less than substantial in nature. The *Planning Practice Guidance* indicates that it is relevant to consider the degree of less than substantial harm that would be caused. It covers a wide spectrum from virtually no adverse effect on significance to its almost total loss.
18. The Framework defines significance as the value of the asset because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. The setting is defined as the surroundings in which the asset is experienced, which may change as the asset and its surroundings evolve. Historic England's *The Setting of Heritage Assets* (GPA 3) sets out a stepped approach to considering the settings of designated heritage assets and the impact of development on them. It also makes clear that whilst visual considerations play an important part in how a setting is experienced, other factors also have relevance, such as noise or aesthetic associations.

### **Thornbury Castle assemblage**

19. Construction started on Thornbury Castle in around 1510 by Edward Stafford, the Third Duke of Buckingham (the Third Duke). It was intended as a grand fortified residence to demonstrate the Third Duke's wealth and importance. However, it was never finished due to his execution by King Henry VIII in 1521. There are separate Grade I listings for the outer court and walls to the kitchen court; the inner court; and the walls enclosing the privy gardens. The castle was built on the site of a medieval fortified manor house and this along with the 16<sup>th</sup> century privy garden comprise a Scheduled Monument. There is also a Grade II Registered Park and Garden, and the east and west lodges and gateway are Grade II listed buildings. Thornbury Castle is now a private hotel. Whilst it is made up of the aforementioned designations, I shall use the umbrella term "*the Castle*" to refer to the whole assemblage, the parts of which are closely interrelated. The inclusion of Grade I listings means that this comprises an assemblage of exceptional interest and importance.
20. The significance of the Castle is derived from its historic, architectural, artistic and archaeological interest. It provides an example of the transition between a late medieval castle and a Tudor country house and was originally designed to demonstrate the incumbent's wealth and aspirations. Although only one tower was completed at the south-west corner, there were various restorations and renovations over the centuries. It is noteworthy that Henry

VIII and Anne Boleyn stayed at the Castle following the demise of the Third Duke. The early origins of the site and its development thereafter can be appreciated from the buildings comprising the Castle. The surviving structures have been depicted in various 18<sup>th</sup> and 19<sup>th</sup> century paintings.

21. The setting around the Castle undoubtedly contributes to its significance. This includes the adjoining Church and the Medieval town with which it has historic and functional associations. Thornbury Park, which is now occupied by the Sheiling School, was built in the 1830s on land purchased from the Castle. The house and grounds are to the north and there are thus historic and associative relationships between the two.
22. I do not consider the evidence indicates that the site was chosen by the Third Duke specifically for its expansive views towards the River Severn. There was already a manor house established here, which he inherited. He was granted licenses between 1510 and 1517 by the King to enclose 1,500 acres of the adjoining land as a deer park. This would have been a further demonstration of his wealth and status by repurposing the farmland as hunting grounds for his recreational enjoyment and as a source of food for his larder.
23. Whilst the historical records indicate that a deer park existed with access from the Castle, whether it ever occupied the full extent of the licensed land is unclear. Curved boundaries were typical, and it seems likely that Oldbury Lane marked the alignment of the original park pale to the north. Whilst deer parks usually contained woodland for the animals to shelter, in this case the evidence suggests that there were mainly hedgerows and tree lines. Although no earthworks associated with the park pale have been detected there are medieval fishponds and Parkmill Farm and Park Farm indicate the positions of two of the lodges and a water mill.
24. It appears that following the Third Duke's death pieces of the Castle land were sold off, including the former deer park. The 1716 Estate Map comprises the earliest pictorial record of the lands around the Castle. It was created by the Newman family who had by this time purchased the Castle lands and went on to build Thornbury Park. The Estate Map shows the land divided into fields separated by hedgerows and this is typical of an 18<sup>th</sup> century agrarian landscape. Whether it depicts the extent of the former deer park or what was left of it, is disputed by the parties. In any event, it shows some 800 acres of land, which was very much smaller than the licenses would have permitted to be emparked.
25. Historic England did not consider that the former deer park was of sufficient importance to reach the criteria required for designation as a Registered Park and Garden. However, in its consultation response to the planning application it commented that this was an important non-designated heritage asset. It considered that the former deer park is relatively easy to read and provides a unique example from the Tudor period of a deliberately designed landscape associated with the Castle. I was able to observe the surrounding area from the roof of the completed Castle tower, which allowed a very good view of the area of land to the north. I also walked the footpaths that cross this rural area. I find it difficult to agree with Historic England's view that the former deer park is easy to read and the only aspect that is clear is the curving alignment of Oldbury Lane. The eastern side is now occupied by the Park Farm housing site and the Castle School, and these developments have

isolated the Medieval fishponds. It seems to me that the association is mainly evidenced through the historical records rather than through an experiential link with the contemporary landscape.

26. The former deer park has not been identified by the Council as a non-designated heritage asset. Notwithstanding Historic England's view, I do not consider that it has sufficient heritage significance to qualify as such and the heritage expert witnesses had a similar view. Nevertheless, it is clear that there was an important, albeit short lived, historical association between this land and the Castle and that it is likely to have been used as a hunting ground. If the extent of this feature is the area shown on the 1716 Tithe Map, then the built development would occupy and remove a further part from it, but a large part would remain unaffected.
27. The open countryside to the north of the Castle does contribute to the importance of the location with views across to the Severn Estuary. The raised ground on which the Castle stands was originally occupied by a medieval manor and so there is a longstanding historical association. The tree cover on the upper slopes limits views in both directions. There are though glimpses of the Castle tower and chimneys from within the appeal site and from the public rights of way that cross it. Some of these views would remain unaffected because the closest part of the site would remain undeveloped. Whilst setting does not depend on public accessibility, GPA 3 does indicate that opportunities to maximise enhancement should be explored. The proposal includes the creation of a large public open space around Pickedmoor Brook, which would widen public access and allow glimpses of the upper parts of the Castle through the trees. In order to appreciate the historical and cultural associations, it is proposed to install interpretation boards, which would allow the significance of the heritage asset to be better revealed.
28. When considering where on the scale the harm would lie, it is important to bear in mind that a large part of the significance of the heritage assets, both individually and as a part of the assemblage, is derived from the historic, architectural, artistic and archaeological value of their fabric and the immediate grounds in which they stand. That would remain unaffected by the proposed development. The wider setting also contributes to significance but much of that would also remain undisturbed by the appeal scheme. The change would occur to the north where a small part of the agricultural landscape, which for a short time was probably occupied by a deer park, would be removed. However, it is relevant to take account of the opportunity that has been taken to maximise enhancement and minimise harm as indicated above. For these reasons I consider that the harm to significance would be towards the lower end of the scale.

### **The Church of St Mary the Virgin**

29. This is a Grade I listed building to the south of the Castle grounds. It provides an important example of a Medieval parish church and its form and fabric reflect its 12<sup>th</sup> century origins and subsequent development between the 14<sup>th</sup> and 16<sup>th</sup> centuries with restoration concluded in the 19<sup>th</sup> century. It has a fine crenelated western tower and a grandiose style and form. A large part of the significance of the Church is derived from the architectural, historical and archaeological interest of its form and fabric.

30. However, the setting is of importance to its significance. This includes the churchyard, which is delineated by stone walls and is closely associated with the church in functional terms and historically. It also provides the immediate context from where the Church is experienced and includes a series of 18<sup>th</sup> and 19<sup>th</sup> century table-top tombs that are listed separately at Grade II. There were strong links to the Medieval manor that stood immediately to the north and subsequently to the Castle. The Third Duke, for example, built a timber gallery between the two sites and this allowed him direct access to the Church. Thornbury and its parish church have been closely associated since Medieval times and the focus of the town was originally thought to have been around the immediately adjoining green.
31. The Church stands at the northern end of a ridge and there is a significant fall in ground levels to the north and west. It is within the centre of its parish, which includes the town as well as the rural area to the north. Views of the heritage asset from the appeal site are at a distance and are disrupted by the thick belt of vegetation that grows around the intervening slope. Nevertheless, due to its elevated position and its height and distinctive form, the upper parts of the tower can be seen from a number of viewpoints and provide a distant landmark from Oldbury Lane and the public footpaths that cross the site. These views allow some appreciation of the historical link between the Church and part of the agricultural lands of its parish. There are also glimpses of the very top of the Castle tower and its flagpole to allow the opportunity to experience the relationship between the historic buildings.
32. The appeal development would not affect the form or fabric of the church itself or the elements that make up its immediate setting. Furthermore, its relationship with the town to the south would remain undisturbed. In my opinion these contribute most to the significance of this Grade I heritage asset. Nevertheless, the agricultural lands to the north were a part of the parish and would have had a direct functional association with the market town they served. The appeal proposal would remove a small element and so this association would be diminished to a limited degree. The built development would also disrupt the visual connection and landmark function of the Church as experienced from within that part of the rural landscape. However, it is important to consider that much of the landscape that lies within the parish would remain unaffected.
33. The Council referred to the effect on the functional and historical associations between the Church and its parish. However, the appeal site would remain within the parish regardless of the development. Furthermore, this parish is very extensive and the reduction in size resulting from the appeal proposal, even in combination with Park Farm and other recent developments, would be very small.
34. As this is an outline proposal there would be the opportunity to minimise harm, and this has been shown on the indicative Landscape Masterplan through maintaining an open vista to the Church through the development. In addition, there would be the opportunity to enhance the experience and associations through the publicly accessible open space proposed within the southern part of the site. In my judgement the harm to significance that would ensue would be towards the lower end of the scale.

## The Sheiling School

35. The Thornbury Park Estate appears to have been created by Richard Newman in the 17<sup>th</sup> century on land that was sold off from the Castle but originally probably formed part of its Medieval deer park. The extent of the estate can be seen to cover a large area to the north of the Castle and is depicted on the 1716 Estate Map. The house was built much later in the 1830s by one of Richard Newman's descendants, Henry Newman, and is listed at Grade II. It is a well-proportioned Georgian/ Regency villa that faces north-east towards a designed parkland. The front elevation has tripartite ground floor sash windows either side of an elaborate porch supported by four Ionic columns. This was intended to indicate that its owner was a person of some standing in society.
36. The significance of the heritage asset is mainly derived from its form and fabric. However, its setting contributes to significance in various ways. There is a close association with the immediate garden with its lawns, trees and shrubs and a wider relationship with the designed parkland beyond, which extends around the northern side of the Castle. From these places the architectural and historic interest of the villa can be experienced. It also allows the association with the Castle to be appreciated and the historical circumstances that led the Castle to be left with virtually no land whilst the relatively modest villa had an extensive landholding.
37. The land beyond the parkland was divided into smaller agricultural fields. However, within the southern part Henry Newman created small circular plantations and lines of trees that were intended to frame views and provide an outer setting designed to be distinctive from the wider agricultural landscape to the north. The Sheiling School purchased the property in 1952 and there have subsequently been some modern developments within its grounds. These have diminished its open parkland character.
38. There is no dispute that the appeal site lies within the setting of the Sheiling School. The southern field, which would remain as undeveloped open space, includes remnants of the circular plantations referred to above and lines of trees along the northern and western perimeters. From this southern area there are views towards the listed building, which stands on higher ground within its parkland grounds. There is the opportunity for enhancement here and as well as public access to allow more people to appreciate the connections, there would be landscaping, including planting trees as "eye catchers" to better reveal Henry Newman's design for this outer setting. The Appellants have also suggested interpretation boards to explain the significance of Thornbury Park and indeed how it was associated with the deer park created by the Third Duke.
39. The proposed housing development would be further to the north. This was part of the Thornbury Park Estate and therefore historically there was a functional relationship. However, this is now difficult to appreciate. Due to the intervening hedgerows and trees, there is little visual connection between this part of the site and the heritage asset. Any glimpses of the new houses would be seen at a considerable distance. The functional link no longer pertains and there are no physical features to connect the land to the heritage asset. Overall, the significance of the Sheiling School derives mainly from its form and fabric. Insofar as the setting is of importance, its value is drawn from the

immediate area of gardens, the parkland beyond and the proximate area of farmland and its designed views. The land beyond this in which the built development would stand has little remaining association or visual connection and in my opinion any harm would be at the very lowest end of the spectrum.

### **Thornbury Conservation Area**

40. The northern section of the Conservation Area includes the former parkland associated with Thornbury Park. To the south it includes the historic town, centred on the main routes of Castle Street, St John's Street and the High Street along with the marketplace at their junction. Here the *Thornbury Conservation Area Advice Note 12* (the Advice Note) identifies a number of different character areas, including densely built burgage plots within the historic core. To the west are the informal stone walled closes and to the east are the back lanes. The significance of the Conservation Area is derived primarily from its historic interest as a seat of power and influence and its importance as a Medieval market town. It also has architectural interest found in the varied character of the buildings and spaces and the archaeological interest focused on its Anglo Saxon beginnings.
41. The Advice Note refers to the wider setting of the Conservation Area, including the agricultural land to the west of the town beyond the closes, which extends towards the River Severn. The Advice Note mentions a Key View from the town centre northwards towards the Church and the wooded hills beyond. Due to the drop in land levels the lower land, which includes the appeal site, is little evident in this view. Historically there would have been functional links between the livestock and produce grown on the surrounding agricultural land and the market town where it was used and distributed.
42. The wider agrarian setting therefore contributes to the significance of the Conservation Area through its cultural and historical associations. Visually the majority of the heritage asset cannot be seen or appreciated from this land due to the topography but as I have already noted there are visual links with the designated assets that stand within it.
43. The nearest part of the site to the heritage asset would not be developed but would become publicly accessible open space. It is from here that the northern part of the Conservation Area can best be appreciated. The proposed built development would be further to the north and at a similar distance to the Park Farm estate. For the reasons given in my consideration of the effect on the other heritage assets, there would be some loss of visual connection between the northern part of the Conservation Area and its agricultural surroundings. To the extent that the proposal would extend built development westwards from Park Farm there would be a degree of diminution at this point to one of the rural approaches to the town.
44. Some views of the landmark church tower from Oldbury Lane and the public footpaths would be interrupted, although I commented above on the proposed provision of a viewing corridor to the church in the indicative Landscape Masterplan. There is also the opportunity for more people to experience the visual and historical connections through the provision of public open space in the southern field. It is worthy of note though that of the three key views in the Advice Note, none encompass the appeal site. The NDP includes nine key views and vistas which are to be protected, but none includes the appeal site or the area to the north-east of the Conservation Area. In the circumstances,

the less than substantial harm to the significance of the Conservation Area would be at the lower end of the scale.

## **Conclusions**

45. The appeal proposal would cause less than substantial harm to the significance of the Castle, the Church, Sheiling School and the Conservation Area on account of development within their setting. The Church and the Castle assemblage include assets of exceptional importance but in my assessment the harm individually and as a group would be at the lower end of the spectrum. The harm to the Conservation Area would also be at the lower end of the scale. The Sheiling School is a Grade II listed building and I consider that the harm would be at the lowest end of the spectrum.
46. Nonetheless, having regard to the importance of these assets and their irreplaceable nature, very great weight and importance must be given to their conservation. The harm to the heritage assets would not accord with policy CS9, but this policy makes no provision for the consideration of public benefits and in this respect is inconsistent with the Framework. The more recent policy PSP17 does include such a provision, but there is a requirement to demonstrate that there is no other means of delivering similar public benefits through development of an alternative site. This is not a test that is in national policy and therefore in this respect is also inconsistent with the Framework. I return to my conclusion on this issue later in my decision.

## **ISSUE THREE: WHETHER THE PROPOSAL WOULD RESULT IN AN UNACCEPTABLE LOSS OF BEST AND MOST VERSATILE AGRICULTURAL LAND**

47. The appeal site comprises some 36 hectares of mainly agricultural land. Following an Agricultural Land Classification survey, it was established that 14.4 hectares of Grade 2 and 10.3 hectares of Grade 3a land would be permanently lost to built development. This is classified as best and most versatile agricultural land by the Framework and paragraph 174 indicates that the economic and other benefits of such land should be recognised. Paragraph 175 indicates that planning policies should seek to allocate land with the least environmental or amenity value where consistent with other policies in the Framework. The associated Footnote 58 explains that where significant development of agricultural land is necessary, areas of poorer quality should be preferred. In seeking to protect natural resources in a sustainable way, policy CS9 in the CS includes a provision that opportunities for local food cultivation should be maximised by avoiding the development of best and most versatile agricultural land. Policy CS34 includes a similar provision.
48. The Appellants have sought to quantify the economic benefit of the land for local food production. It has been estimated that it could annually produce, very roughly, 28 tonnes of cereal crops or around 1,200 kg of live weight beef cattle. This would equate to around £4,500 and £2,600 respectively. In itself I agree with the Appellants that this is a relatively limited benefit in terms of food production
49. It is noted that much of the land to the north and east of Thornbury adjacent to the settlement comprises Grade 2 or Grade 3a agricultural land. This includes the two CS opportunity areas of Park Farm and Moreton Way as well as other sites granted planning permission by the Council such as Post Farm

and land west of Gloucester Road. The agricultural land quality has not therefore been seen as a determinative factor in the Council's decision-making or plan-making at Thornbury. This is particularly apposite bearing in mind that much of the south and south-western side of the town is designated Green Belt.

50. Nevertheless, the appeal proposal would result in the loss of best and most versatile agricultural land. This should properly be considered a disbenefit of the scheme and would be contrary to policies CS9 and CS34 in the CS. I return to this matter later in my decision.

## **ISSUE FOUR: WHETHER THE PROPOSAL WOULD PROVIDE SUFFICIENT CHOICE FOR JOURNEYS OTHER THAN THE PRIVATE CAR**

### **Introduction**

51. Thornbury is a market town that has a good range of shops, services and facilities, including some local employment opportunities. The appeal site is on the north-western side of Thornbury, adjacent to the new housing development being constructed at Park Farm. Many local people were very concerned that the proposed development would be inaccessible and that most new residents would travel by car. The Council did not object on these grounds, but objectors claimed that this was because a site of similar distance on the north-eastern side of the town was not considered to be an unsustainable location at appeal<sup>1</sup>. I note the comments by that Inspector, which seem to me to be reasonable and well justified. Nevertheless, each site is different, and I have considered the accessibility of the appeal scheme on its own merits.
52. Policy CS8 in the CS does not support development that is car dependant and seeks to promote other transport choices, including walking, cycling and public transport. Policy PSP11 in the PSP DPD has similar objectives whereby development should be located on safe, useable walking or cycling routes that are an appropriate distance from key services and facilities. Where this is not possible development should be located on a safe, useable walking route to a bus stop which connects to a frequent service to the relevant destination. The supporting text sets out what an appropriate walking and cycling distance may mean. This will vary depending on the facility, although there are some important provisos. The distances in the PSP DPD are "*as the crow flies*" and no account has been taken of the quality or safety of the route. The point is made in the supporting text to policy PSP11 that this will mean that greater or lesser distances could be appropriate depending on the circumstances. Both national and local planning policy seek to give people travel choices. However, it is important to understand that it cannot mandate that they are taken up.

### **Walking and cycling**

53. The actual walking or cycling routes will often exceed the "*crow flies*" distances referred to above. Furthermore, as the appeal site is relatively large there will be a material difference between the distances that those people living on the western side have to travel compared to those living closest to Park Farm. The main parties and the objectors did not agree on the actual

---

<sup>1</sup> Land south of Gloucester Road, Thornbury (APP/P0119/W/17/3189592).

distances<sup>2</sup>. However, on any assessment the walking or cycling journey to most facilities would be further than that set out in the PSP DPD.

54. I undertook walks on several occasions between the site and different parts of the town. There are various route choices, including footpaths which appeared to be well frequented and pleasant to use. *Manual for Streets* indicates that walking has the most potential for replacing short car trips, particularly those under 2km. Some people will undoubtedly walk further and travel to the town centre or to other facilities on foot. However, from the centre of the site I estimated that the distances to the town centre and most other facilities would exceed 2km. For some people, for example those with mobility impairments or those accompanied by small children, the walk may therefore not be a viable option.
55. Greater distances can be covered by bicycle and many of the routes seemed from my observations to be conducive to this form of travel. Cycling is a popular means of getting around for some people and there is no reason why it would not be a modal choice for those able to do it. The scheme includes a financial contribution towards the provision of additional cycle stands in the town centre to allow cycles to be parked securely. It should be noted that there are proposals by the Council and the West of England Combined Authority to make improvements along the A38 corridor towards Bristol for cyclists. This will include the provision of segregated cycle tracks alongside the main road, reduced speed limits and improved crossing points. Whilst these proposals are only at consultation stage, if implemented they would result in a more attractive and safer environment for cyclists travelling between Thornbury and Bristol.

### **Bus travel**

56. The nearest bus stops are in Park Road and Alexandra Way, around 1km from the nearest part of the appeal site. From here there is a choice of three services, which go into the High Street and various other places, including Cribbs Causeway, Yate, Chipping Sodbury Bristol Parkway and Avonmouth. The proposal includes a financial contribution towards improved shelters at two bus stops in Rock Street, with real-time information being provided at one of them. This would add convenience and comfort to the user experience. I see no reason why people would not use the bus for short trips to the High Street. However, I appreciate that the lack of frequency of these services to places further afield would require more careful planning, which would deter some potential customers.
57. The T1 service operated by First Bus runs to Bristol City Centre every 30 minutes on Mondays to Saturdays and every hour on Sundays. The nearest bus stop is somewhere between 1.9 and 2.4 km from the centre of the site. The frequency of the service is likely to attract some new residents to use this travel option, notwithstanding the distance to the bus stop. It is also to be noted that the aforementioned package of improvements to the A38 corridor includes new bus lanes close to busy junctions, including the M5 interchange. This, along with improvements to bus stops and busy junctions would improve the experience and help shorten bus journeys along this busy section of road.

---

<sup>2</sup> The Appellants and the Council have agreed distances in the SCG on Transportation and Highway Matters. Mr Woosnam, an objector, has presented his assessment in Appendix 7 of his statement to the inquiry. I have referred to the relevant distances from each source.

## **Proposed sustainable travel measures**

58. As part of the Park Farm development there is a commitment to an extension of the bus route through the new estate to join Butt Lane at one end and Alexandra Way at the other end. The latter would entail a new link, which has been secured through a legal agreement with the relevant landowners. However, it is not known when this will be provided. Furthermore, the evidence in the SCG on Transportation and Highway Matters is that there is insufficient patronage from Park Farm alone for this extended route to be commercially viable.
59. The proposal includes a sustainable travel link between the appeal site and the Park Farm development. This would be 6.5m in width with a design speed of 20 mph and would allow two-way bus movement if required. It would also allow cycle and pedestrian access but would not be available for car use. There would be two alternatives for the proposed extended bus service. The first option would divert it from Park Farm through the appeal development, effectively resulting in an extended loop. This would rely on the aforementioned link to Alexandra Way being implemented. The second option would be for the bus route to loop through the appeal site in a similar way but route through the northern part of Park Farm to exit onto Butt Lane. This would not require the Alexandra Way link to come forward. In either scenario residents in both developments would have the potential to be within 400m of a bus stop and the long-term viability of the bus service would be assured.
60. Funding has already been secured from the Park Farm development for the extended bus service into that site. No additional financial contribution would be required for the additional section of the route through the appeal site. However, the Business Case submitted in the Updated Transport Assessment indicates that a contribution of £2,000 a year for 5 years would be necessary to allow the Park Farm funds to be utilised over a longer period of time and thus ensure commercial viability.
61. The appeal proposal would include a single form entry primary school and a nursery facility along with a retail/ community hub. Residents of the new development would be able to access these facilities on foot. In addition, the proposal would be served by a Travel Plan that accords with the principles of the submitted Framework Travel Plan. The main objective is to reduce reliance on the car and reduce single occupancy car journeys. Various measures are proposed including sustainable travel vouchers, which could be used for bus travel or cycle training, for example. There would also be secure cycle storage for each dwelling and at the retail/ community hub. The sustainable travel link would allow cycle and pedestrian access to the Park Farm development in order to provide a quicker and more convenient route towards the town centre. There would be provision for a Car Club to be set up and this and the sustainable travel vouchers would be paid for by financial contributions secured by the UU.

## **Conclusions**

62. The site has some shortcomings in terms of accessibility, especially in relation to walking trips. I have no doubt that trips would be undertaken by car as is the case with the existing population. However, there would be opportunities available for people to exercise alternative modal choices. The proposal includes a number of measures designed to encourage changes in travel

behaviour as set out above. The Framework indicates that when assessing development proposals, it should be ensured that appropriate opportunities to promote sustainable travel modes can be - or have been - taken up, given the type of development and location. The Council is clearly taking pro-active action in this respect through its proposals for the A38 corridor. The appeal scheme also includes its own sustainable travel measures.

63. I appreciate that there was a survey of the new estates around the town undertaken in 2018 by the residents' group TRAPP'D. As I understand it the results were based on 71 returns. These indicated that the demographic is skewed towards young families in comparison with the settled population. In terms of travel mode nearly all used a car, and none used the bus. During the inquiry an objector undertook a Facebook poll. On the question that asked how often the bus was used, just under 70% respondents answered negatively. On the question asking whether a car share scheme would be used nearly all answered negatively. On the question asking about walking to the High Street there was a more even split between walk and car. On the question of the frequency of undertaking the walk to the High Street, there was a more varied response. The results of these two surveys do not seem to me surprising. This is because they reflect the available facilities from the respective locations available at the time of the poll. In the case of Park Farm, clearly people do travel on foot, although I accept that this estate is closer to the town centre than the appeal site. There is no bus serving the development at the moment and a car share scheme is rather different from a Car Club scheme, which as far as I am aware does not operate at Park Farm.
64. I therefore conclude that the appeal site has the potential to become a relatively accessible location where new residents will have the option to choose a number of sustainable travel opportunities rather than rely on car journeys for their trips. That is not to say that the car will not be used because that would be unrealistic. The important point is that there would be reasonable alternatives available in this case for many journeys. For these reasons I consider that in this respect the proposal would comply with policy CS8 in the CS and policy PSP11 in the PSP DPD.

## **ISSUE FIVE: WHETHER THE COUNCIL CAN DEMONSTRATE A FIVE YEAR HOUSING LAND SUPPLY**

### **Background**

65. The CS is over five years old and so the assessment of housing land supply is against the local housing need using the Government's standard methodology. In this case there is no dispute that the relevant figure is 1,388 dwellings per year, taking account of the 2022 updated affordability ratio. Whilst the NDP was made in May 2022 it does not include policies and allocations to meet the identified housing requirement. Paragraph 74 of the Framework is engaged, and it is necessary for a supply of 5 years of deliverable housing sites to be demonstrated. The January 2022 Housing Delivery Test results show that the Council has exceeded delivery expectations over the past 3 years. It is therefore only necessary to apply a 5% buffer, moved forward from later in the trajectory, to ensure choice and competition in the market for land. In order to meet the Council's housing need and provide the necessary buffer, a deliverable five year supply of 7,287 homes will need to be demonstrated.

66. The Framework clearly defines the meaning of deliverable. The site must be available now, offer a suitable location for development now and be achievable with a reasonable prospect of delivery over the five year period. Sites fall into one of two categories. Those with detailed planning permission are assumed deliverable unless there is evidence to indicate otherwise. Sites with outline planning permission or allocated sites are only be considered deliverable where there is clear evidence that delivery will take place within five years. The agreed five year period is 1 April 2021 to 31 March 2026. The position of the Council following the housing round table session at the inquiry was that it has 5.54 years of deliverable sites. The Appellants considered the position to be 4.33 years.
67. I turn now to consider the elements of supply that remain in dispute. It should be made clear that my consideration is on the basis of the evidence I received at the inquiry, and I have taken into account the helpful information provided by the individual case officers for the sites in question. My conclusions are a snapshot in time and by the time the decision is issued it is quite possible that the circumstances of some sites may have changed.

### **Student accommodation**

#### *0251: University of Western England Phase 1 and 0252: Block B Cheswick Village*

68. There are two sites that will provide a total of 885 bedspaces in cluster flats and 54 studio flats. 307 dwellings have been added to the housing supply on the basis that the students would not be seeking alternative accommodation in the housing market. The Council indicate that this is a conservative figure.
69. The *Planning Practice Guidance* indicates that such accommodation can be counted on the basis that the students would not be seeking to find housing on the open market, most likely in the form of HMOs. Such a scenario would rely on the number of students remaining relatively stable and being accommodated on-campus rather than off-campus. In this case UWE's objective is for its first-year students to be housed on-campus and for that reason the aforementioned new accommodation is being provided. It is of course the case that second and third-year students would have to live off-site as happens at the present time. It is acknowledged that the on-site accommodation would not be sufficient to house all first-year students.
70. The figures indicate that student numbers have been increasing since 2016/17, mainly due to an increase in full-time students. However, the information from the University is that there were 7,737 first-year students in 2020/21 and the planned intake for 2022/3 is 7,720 with the projected intake for the following year much the same. It has also confirmed its strategy to bring its first-year students onto the campus and that as demand cannot currently be met the further on-site accommodation is to be provided. Clearly students will still be relying on accommodation within the general housing market, but it is a reasonable proposition that there will be a reduction in the degree of such reliance. Due to its proximity, some students will no doubt be accommodated in Bristol and the evidence indicates that UWE has nomination rights for 1,795 bedspaces within the City. Nevertheless, as many of the residential areas surrounding the university are in South Gloucestershire, I consider that on the basis of the evidence before me, it is reasonable for 307 dwellings to remain in the housing supply.

## Windfalls

71. Objectors pointed to the 2021 Annual Monitoring Review (AMR), which indicated that since the start of the CS period in 2006 an annual average of 253 dwellings had been built on small sites. They therefore queried the AMR, which adopted a more cautious figure of 210 dwellings. However, The CS Inspector indicated in his 2013 report a historic rate of 159 dwellings a year over the preceding 23 years. Clearly there has therefore been considerable fluctuation in the contribution of small sites to the housing supply. Furthermore, whilst paragraph 71 of the Framework indicates that the approach should be realistic this is within the context of taking account of historic rates as well as expected future trends. In the circumstances I see no reason to depart from the conclusion in the AMR that a windfall allowance of 210 would be justifiable. This matter will no doubt be reviewed during the examination of the new Local Plan.

## Cribbs Patchway new neighbourhood

### *0134aa: Land at Cribbs Causeway (Berwick Green/ Haw Wood)*

72. This part of the strategic site is being developed by Bellway. Reserved matters were approved in April 2022 and the infrastructure, including road construction is underway. I was told that the developer wishes to start building the dwellings by the end of 2022, but it has provided no confirmation that the first 37 units will be built out by the end of March 2023. The Council accepted that this may not happen but was confident that the shortfall was capable of being made up during the following 3 years. There is no evidence to support such an assertion and it seems to me more likely that the building period will extend beyond the five year period. In the circumstances, 37 dwellings should be removed from the supply.

### *0134ab: Parcels 14-19 land at Cribbs Causeway (Berwick Green/ Haw Wood)*

73. This part of the strategic site is being developed by Taylor Wimpey and shares the same outline permission as the site above. The reserved matters application was made in July 2021 and there are outstanding objections from internal consultees on matters such as crime prevention, urban design and landscape. Whilst these are important matters there is no reason why they will not be resolved. I was told by the Council that approval was expected by the end of September 2022. In the circumstances it would be unreasonable to remove all 244 dwellings from the supply as suggested by the Appellants.

74. Even if reserved matters are to be approved imminently there will be a lead-in period before house building can begin. In the absence of clear evidence from the Council it is reasonable to take a cautious approach. It seems to me that delivery should be pushed back to the last 3 years of the five year period. I consider that 9 dwellings should be removed from the supply.

### *0134c: Former Filton Airfield*

75. YTL are the developers of this site, which is part of a much larger site with outline planning permission for mixed-use development including 2,675 dwellings. As I understand it a new outline application was submitted in April 2022 with a much larger residential component. The legal position regarding the two outlines is unclear but I was told that 0134c would be built out under the existing outline permission. It comprises a retirement village and 339

dwellings, but the former will be subject to a separate application and will not be included in the supply. Reserved matters were submitted in September 2022 for the 339 units, which has yet to be determined. The developer considers that 100 will be delivered in the last 2 years of the five year period.

76. YTL has a Planning Performance Agreement with the Council. Even allowing for the determination of the reserved matters application and a lead-in period thereafter, it seems reasonable that 100 dwellings would be delivered between April 2024 and March 2026. The Appellants point out that this would be phase 2 of a site that YTL is constructing on adjoining land. The Appellants raised no objections to that, and in their own five year trajectory phase 1 would be completed by the end of year 3. All things considered the 100 dwellings should remain in the supply.

### **Land east of Harry Stoke new neighbourhood**

#### *0135a: Land south of the railway*

77. This is part of a larger development that had outline planning permission and is being built by Crest Nicholson. The first phase to the west is being built out. Reserved matters for 137 dwellings were submitted in March 2022. The Planning Performance Agreement is apparently being renegotiated and there are a number of issues to be worked through, including access to the adjacent Hoodlands site, which is to be independently developed. The Council indicated that the road and drainage infrastructure has been approved and is being delivered, thus opening up the site for housebuilding. However, it seems to me that there are several uncertainties about delivery of this land within the period in question. The lack of clear evidence leads to my conclusion that 55 dwellings should be removed from the supply.

#### *0135b: Land north of the railway*

78. This is part of a larger site, part of which is being built-out by Wain Homes. 0135b is immediately to the south and is owned by the Council who is trying to sell it to a housebuilder. It shares an outline permission for 327 dwellings with the Wain Homes land, which would provide the infrastructure including the access. but no reserved matters have been submitted. I understand that the sale of the land is anticipated by the end of 2022 but due to confidentiality this could not be confirmed. Whilst a reserved matters application was expected next year, without a known housebuilder to confirm build rates or timescales this is impossible to corroborate. There is no clear evidence to confirm the likelihood of any homes being delivered within the five year period. In the circumstances, 100 dwellings should be removed from the supply.

#### *0135d: Land off Old Gloucester Road, Hambrook*

79. This site lies to the south of 0135b and is privately owned. It has outline permission for 158 dwellings granted in October 2020. There is no information that a housebuilder has been engaged even though the land appears to have been marketed. Furthermore, there has been no reserved matters submitted or any idea of build-out rates or timescales. There is no clear evidence to confirm the likelihood of any homes being delivered within the five year period. In the circumstances, 53 dwellings should be removed from the supply.

## **North Yate new neighbourhood**

80. Policy CS15 establishes the strategic allocation and the expectation of 2,700 dwellings being built by the end of the plan period (2027). The plan period was split into 3 parts with different delivery expectations. The evidence indicates that by the base date of 2021, 1,449 dwellings should have been delivered but that only 648 dwellings had materialised. Various AMRs have predicted increasing delivery rates and the 2021 AMR considered that 1,487 homes would be delivered by 31 March 2026, which would be 297 dwellings per year.
81. The majority of the land is being built out by Barratts and David Wilson Homes although Taylor Wimpey and Bellway are constructing 157 and 257 homes respectively. The Appellants consider that the build out rates for the 2 housebuilders responsible for the majority of the site should be considered. They point out that the highest rate was 191 dwellings in 2019/20. The Council counter this by pointing out that the need to put in road infrastructure would have reduced the ability to build houses and that Covid-19 also caused construction delays. The Council made a comparison with Charlton Hayes. For the same period an average of 201 dwellings per year were delivered, although I understand that more housebuilders were involved.
82. It seems likely that build-out rates will increase now that the infrastructure is completed. I also appreciate that some of the units will be flats, which should be faster to deliver. However, most of the site is being developed by 2 housebuilders rather than 4 and I consider that the Council's contention that 1,487 dwellings will be built out over the 5 year period is overly optimistic and there seems little or no evidence to support it. For example, no assessment has been made by the housebuilders as to how quickly the homes will be constructed. The Council has invited me to determine a reasonable rate if I do not accept its arguments. I gave it the opportunity to reflect but no other figure was forthcoming. I consider that the only reasonable option is to look at the actual delivery that the 2 major housebuilders have achieved up to the base date. Taking the highest of these, which was for 2019/20 and thus pre-pandemic, seems to me the most appropriate solution. In the circumstances, 532 dwellings should be removed from the supply.

## **Land at Harry Stoke**

### *0021b: Phases 1-5, Harry Stoke*

83. The site has detailed planning permission for 763 dwellings with 605 being included in the supply. It is being developed by Crest Nicholson in a joint venture with Sovereign who are constructing the affordable element. It is understood that Linden Homes has developed a part of the site and has completed 112 dwellings. The dispute relates to the build-out rate. The Council indicate that Crest has projected delivery of 559 units between 2021 and 2026, which would give a build-out rate of 111 units a year. That does not seem to tally with the developer's pro-forma, which was submitted in evidence and indicates a total of around 387 units. However, the proforma is not signed or fully completed and can thus have little credence.
84. The Council's evidence is therefore far from clear with different figures in its AMR trajectory and evidence. In the circumstances I consider that it is reasonable to adopt the Appellants more cautious position by using the

average build-out rates that have been achieved by Crest on the first phase of the wider site. I appreciate that this was for a lower density development whilst 40% of the 0021b site would be flats and thus potentially quicker to build. Nevertheless, based on the available information, an average rate of 52 dwellings per annum is to be preferred. This means that 233 dwellings should be removed from the supply.

#### *0021c: Phases 6 and 7, Harry Stoke*

85. The outline planning permission for 1,200 dwellings was granted in 2007 with a ten year period for reserved matters to be submitted. Just before this expired a reserved matters application for 263 dwellings was submitted. This has not been determined. During the discussion at the inquiry the Council revised its assessment reducing the anticipated 125 dwellings to 50. The site is controlled by Crest Nicholson but one of the power lines still needs to be moved underground.
86. It is acknowledged that the developer asked for the reserved matters application to be put on hold during the pandemic and that consideration has only recently restarted. Nevertheless, the timescales involved since the outline permission was granted do not indicate much sense of urgency, especially bearing in mind that the reserved matters application was submitted well before the pandemic. The Council indicated at the inquiry that it has regular meetings with Crest, and yet there is no written indication from the developer, and I was told that the Planning Performance Agreement is being renegotiated. There is too much uncertainty and no clear evidence that the site will contribute anything to the supply during the five year period. In the circumstances, 50 dwellings should be removed from the supply.

#### **Watermore Junior School, Coalpit Heath**

87. The site has outline planning permission for up to 26 dwellings and full permission for a primary school. Reserved matters approval was given for 5 dwellings in June 2020 and this part of the proposed development is not disputed. A Registered Provider, Live West, now owns the site. It is proposing 15 new dwellings and conversion of the existing school building to 6 units. All would be affordable. Prior approval was given in June 2022 for the removal of a modern teaching block, which was required to build the new dwellings. Live West has also undertaken public consultation events.
88. The demolition may be underway but there have been no reserved matters for the 21 dwellings submitted. Whilst the Council indicate that this is "expected" in early 2023 there is no indication of intention from Live West itself. In the absence of such, I consider that 21 dwellings should be removed from the supply.

#### **Land east of Cedar Lodge, Charlton Common**

89. An outline planning permission for 29 dwellings was granted in October 2021. Reserved matters applications were made for the 29 dwellings and an attenuation basin to serve them in February 2022 by Woodstock Homes. I was told that there are objections on ecology grounds and relating to biodiversity net gain. There is no indication from the developer or its agent of its intentions and no approval on either of the reserved matters applications. The Council indicated that progress on the outstanding issues was not

sufficient to determine the applications yet but was confident this would be resolved in 2023. This is not sufficient to comprise the clear evidence of deliverability required and so 29 dwellings should be removed from the supply.

## **Conclusions**

90. For all of the reasons given above, I consider that the Council can demonstrate through clear evidence that it has sufficient housing land for the delivery of 6,948 dwellings within the five year period 2021-2026. On the basis of an agreed five year housing need of 7,287, including a 5% buffer to provide choice and competition in the market for land, the Council has a 4.77 year housing land supply.

## **ISSUE SIX: THE EFFECT ON ECOLOGY AND NATURE CONSERVATION**

### **Effect on wildlife**

91. A number of objectors are concerned about the loss of wildlife. It is noted that the appeal site is not within any designated area in terms of its ecological importance, although there are several non-statutory sites of nature conservation value within relative proximity. The closest is the Park Mill Covert SNCI adjoining the western boundary. The ES includes detailed information about the effects on ecology and it is noted that various site surveys have been undertaken, including of protected species. Mitigation measures are proposed during and after construction. These would be secured by planning conditions, requiring submission of an Ecological Construction Method Statement, a pre-works badger survey and a Landscape and Ecological Management Plan.
92. The habitat of greatest value to wildlife, including bats, is the wooded corridor along the Pickedmoor Brook and the broadleaved woodland in the southern and western sections of the site. These areas would remain undisturbed. The ES recognises that there would be a loss of hedgerows within the developed areas, although this is generally species-poor due to intensive management over the years. They are thus of limited value to wildlife. The proposal includes green spaces and corridors within the developed areas as shown on the Green Infrastructure Parameter Plan. These green links would provide connectivity for bats to commute between the foraging habitats around Pickedmoor Brook and the rural area to the north. Planning conditions would secure various enhancement measures including a lighting strategy, which would minimise light spill to protect the habitats of bats and nocturnal wildlife.
93. An assessment has been undertaken using Natural England's Biodiversity Metric 3.1. The results show that there would be a net gain of some 74% in habitat units and 39% in hedgerow units. There was no dispute about methodology and the way the gains had been calculated. I consider that they demonstrate there would be considerable enhancement to the biodiversity of the site. At present there is no requirement for any specified gain in either national or local planning policy. The scheme would be in accordance with policy PSP19 in the PSP DPD and the Framework in this respect.

### **Effect on European sites**

94. The *Conservation of Habitats and Species Regulations 2017* (as amended) (the Habitats Regulations) require that where a plan or project is likely to

have a significant effect on a European site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (myself in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

95. There are a number of European designated sites within 10km of the appeal site. The Severn Estuary Special Area of Conservation (SAC), Special Protection Area and Ramsar Site are the closest, being some 2.8km to the west. This area is designated for its estuarine habitats, wintering bird assemblage and migratory-fish populations. The River Wye SAC is about 8.2km to the west and is designated for its water courses, vegetation and species, including the Atlantic Salmon, White clawed crayfish, otter and various species of lamprey. The Wye Valley and Forest of Dean Bat Sites SAC is approximately 9.5km to the north-west and its qualifying features include the Lesser and Greater Horseshoe bat populations. The Wye Valley Woodlands SAC is approximately 9.8km to the north-west and is designated for its beech and mixed broadleaf forests and yew woodlands.

#### *The Severn Estuary protected sites*

96. The Pickedmoor Brook runs across the southern part of the appeal site and discharges into the Severn Estuary about 2.5km downstream. The built development would be in excess of 140m to the north of this watercourse and even if any contamination of surface water or ground water during construction reached it this would be diluted due to the distance from the protected waters. There could potentially be some loss of potential feeding habitats, but the ES did not record any of the qualifying bird species being present at the appeal site or its use for foraging. It is therefore safe to conclude that the appeal site is not important in terms of supporting the protected characteristics of the SAC habitats.
97. The Habitats Regulations Assessment published in connection with the now withdrawn *West of England Joint Spatial Plan* stated that, further to discussions with Natural England, housing developments within 7km of the Severn Estuary sites will have most potential risk of generating damaging recreational pressure. Potential effects include disturbance to sensitive species, including wintering birds, through habitat erosion and fragmentation. The ES indicates that there are limited public access points and parking facilities at the closest points to the protected sites. The Severn Way long distance footpath, which follows the estuary edge, is not directly accessible from the appeal site by public footpath. Furthermore, the appeal proposal would include some 17.50 ha of on-site public open space, which would be a more convenient alternative for informal recreation, including dog walking. In such circumstances I am satisfied that there would be no significant adverse impacts as a result of recreational pressure from the new population.
98. The sustainable drainage design would ensure that the pre-development greenfield characteristics would not be exceeded so that there would be no significant increase in the quantity or change in the quality of water leaving the site during the operative phase. Foul drainage would be managed through existing sewage treatment infrastructure and in accordance with existing

legislative controls, including discharge consents. In the circumstances there would be no risk of harm to water quality within the Severn Estuary sites.

#### *The other European sites*

99. Although the appeal site is 9.5km from the Wye Valley and Forest of Dean Bat Sites SAC the conservation objectives include maintaining the habitats on which the qualifying species rely. The appeal site would be within the range that Lesser and Greater Horseshoe bats could travel to forage. However, the ES records very low levels of these species of bat being present and therefore it seems to me reasonable to conclude that the site is not of importance as a foraging ground for the Horseshoe bat populations within the SAC.

100. The appeal site is separated from the other European designated sites by the Severn Estuary. Therefore, the distance by road for the consideration of recreational effects and potential trip generated air quality effects would be significantly greater than 10km. I am thus satisfied that there would be no risk or probability of a likely significant effect on the interest features of these sites arising from the occupation phase of the appeal scheme.

### **Conclusion**

101. It is to be noted that Natural England, who is the Government's advisor on nature conservation, was satisfied with the assessment in the ES. I can therefore safely conclude that the appeal proposal would not have a significant effect on the integrity of the European sites, having regard to their conservation objectives. To be clear, this conclusion does not rely on further mitigation. In such circumstances it is not necessary for me to carry out an Appropriate Assessment under the Habitats Regulations in this case.

102. With regards to wildlife on the site, including protected species, I consider that, subject to the mitigation indicated in the ES and the imposition of appropriate planning conditions, there would be no significant adverse ecological impacts. In this respect the proposal would be in accordance with policy CS9 in the CS and policies PSP18 and PSP19 in the PSP DPD.

### **OTHER MATTERS**

#### *Highways*

103. There was a considerable amount of local objection about congestion and highway safety. I noted from my own observations that the roads in and around Thornbury are busy, especially at peak times. A development of nearly 600 dwellings would clearly generate additional traffic movements, although for the reasons already given, the scheme includes sustainable travel solutions. The number of peak period traffic movements and the trip distribution was agreed by the Council as Local Highway Authority. This included a cumulative assessment with other committed development projects. The Framework makes clear that planning permission should not be refused on highway grounds unless the residual cumulative impacts on the road network would be severe.

104. The Local Highway Authority is responsible for the function and safety of the local road network. As the statutory authority it has a duty to consider matters of safety and whether development proposals would be acceptable without severe impacts. In this case, the Transport Assessment concluded

that there is residual capacity across the network, having regard to committed developments. The Local Highway Authority has not objected to the appeal scheme subject to a number of mitigation measures. These include signalisation of the Butt Lane/ Morton Way/ Gloucester Road junction and financial contributions towards the increased capacity and safety of the junctions of the A38 with Thornbury Road and Church Road. A 40 mph speed limit to the west of the site entrances is also proposed, which would encourage drivers to slow down as they enter the town.

105. National Highways is responsible for the safe operation of the strategic road network. The A38/ B4509 right hand lane capacity would be increased through local road widening and the pedestrian crossing facility improved. The two-way north-bound slip road leaving the M5 Motorway at junction 14 would be lengthened, which was identified as a required improvement to reduce morning peak queuing. National Highways has agreed that these measures would not only mitigate the impact of the proposed development but also result in a wider improvement to capacity and traffic flow in the morning peak period.
106. There are no Air Quality Management Areas in Thornbury or its vicinity. Whilst I appreciate that there would be increased traffic movements, there is no reliable evidence that the levels of pollutants such as NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> would exceed the levels set out in the national air quality objectives if the development were to go ahead. This has been addressed in the ES and no significant effect on air quality was concluded.
107. For all of the above reasons the evidence indicates that there would not be a severe residual impact on either the local or strategic highway network. I am satisfied that in this respect the appeal scheme would not conflict with policy CS8 in the CS and policy PSP11 in the PSP DPD.

#### *Infrastructure*

108. There is local concern that Thornbury has been subject to a large amount of development in a relatively short period and that it has been difficult to absorb such rapid growth into the existing community. This is perhaps exacerbated by the fact that many of the new residents have a younger age profile than the existing population. Whilst I understand this concern it is difficult to see how it could be a reason for objecting to the scheme. The Council cannot at the present time meet its housing need and it has limited opportunities to provide for such growth in view of the extent of protective designations, including the Green Belt. Also, there is no evidence that integration cannot satisfactorily be achieved. Whilst pressure on GP and dental services is raised, this is a problem nationally and not within the remit of this appeal to resolve. I note that the relevant consultees have not objected to the scheme or requested that contributions be provided.
109. The proposal includes an on-site primary school and nursery. The area of land has been identified in the UU and once the Council has accepted it, the contributions for these facilities would be transferred. The up-to-date evidence indicates that there are sufficient surplus places at several primary schools relatively close to the appeal site to accommodate pupils prior to the delivery of the on-site facility.

110. I appreciate that there is local objection relating to secondary school capacity to accommodate the children who would live within the appeal development. However, it is important to understand that the Council as Local Education Authority has a statutory duty to provide sufficient school places for pupils in its area. On the basis of the Council's child yield multiplier, which I consider the most reliable indicator to use, the development would generate 113 secondary school pupils. Thornbury falls within the catchment area of the Castle School, but it appears to draw children from a considerable distance, including some from within the adjoining catchment of Marlwood School in Alveston. The evidence indicates that now and in future years there would be sufficient spare capacity at the Castle School, which would be accessible on foot or cycle from the appeal site. I note that these two schools are within the same planning area for funding. However, due to the considerable spare capacity between them no financial contribution was required by the Local Education Authority from the appeal development.

### **PLANNING CONDITIONS**

111. A list of planning conditions was drawn up by the main parties and these were discussed at the inquiry. My consideration has taken account of paragraph 56 of the Framework and advice in the *Planning Practice Guidance*. In particular I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. I have changed the detailed wording in some cases to ensure that the conditions are precise, focused and enforceable.
112. This is an outline application with all matters save for access reserved. The standard requirements regarding the submission of reserved matters have been imposed but reduced timescales for implementation have been included. This was agreed by the main parties as reasonable in order that the housing could contribute to the short-term land supply deficit. There is a requirement that the development should accord with the submitted drawings in the interests of precision and proper planning. In addition, there is a requirement that the design parameters and strategies should be in accordance with the Design and Access Statement. This is required to ensure that the details put forward later in the process achieve high design quality.
113. Due to the size of the development, it is proposed to be constructed in phases. In order to ensure that this is planned comprehensively and proceeds in an orderly manner, a strategy setting out the relationship between the different phases is necessary. This would need to be submitted before or at the same time as the first reserved matters. It is acknowledged that during the development process small changes to the agreed phasing process may be required. It is therefore reasonable to allow this to happen at the discretion of the Council. The Phasing Strategy would include the disposition of uses, including open spaces, affordable housing, the non-residential elements, transport infrastructure and the like. Also included would be the parts of the site where public art would be provided. This was a matter of dispute and I consider the justification for it below.
114. There are various details that need to be provided but do not fall within the defined scope of "reserved matters". Examples include ground and floor levels, materials, car and cycle parking, walls and fencing. A condition is

- justified that requires these matters to be considered at the same time as the reserved matters for each phase of the development. A separate condition is required to ensure that the main road through the development is sufficient in size to accommodate all modes of travel, including cyclists and the bus.
115. A Framework Travel Plan has been submitted. However, it is necessary to ensure that its principles are incorporated within a final document that reflects the detailed scheme before the development is first occupied. The cost of implementing the Travel Plan is included within the S106 Agreement. As already commented the development would be within cycling distance of many facilities in Thornbury and beyond. However, it has been acknowledged that some journeys would continue to be undertaken by car. In such circumstances the car and cycle parking facilities provided for each dwelling or non-residential use should be provided prior their occupation. The Government is encouraging more use of electric vehicles and details of the infrastructure to support them needs to be provided for each phase of the development.
116. Highway improvements have been proposed to various junctions on the local and strategic highway network as referred to earlier in my decision. It is also intended that localised road widening is carried out to Oldbury Lane and Butt Lane. These works are necessary for reasons of highway safety and would improve capacity and mitigate the impact of additional traffic generated by the proposed development. These works would not be needed until the traffic movement reached a certain point. This is why in some cases part of the development could go ahead before the mitigation is required.
117. Two new access points to the appeal site would be constructed onto Oldbury Lane. There would be supporting infrastructure and lighting, and the speed limit would be reduced to 40 mph. The latter would require the making of a Traffic Regulation Order. Although this would be subject to public consultation it would have safety benefits and there is no reason to surmise that it would not be made. These works and at least one of the accesses should be completed before any dwelling is occupied and the measures are necessary to ensure that a safe and suitable access is provided.
118. In order to ensure that the main road through the development is suitable for buses it is required to be 6.5m in width. The provision of a link between the appeal site and the Park Farm development is important as part of the sustainable travel package. This would allow buses to pass between the developments as well as pedestrians and cyclists. It is necessary for it to be in place before the appeal scheme is first occupied. In order to encourage bus travel and make it an attractive option for all users, high quality waiting and boarding facilities would be provided. These provisions would be carried out in accordance with the agreed phasing strategy.
119. It is proposed to use sustainable drainage principles as indicated in the Flood Risk Assessment. A surface water drainage strategy is necessary to ensure that the needs of the development are met in a sustainable manner and without harm to ecological interests. The developed areas are within Flood Zone 1, but in order to satisfactorily mitigate against climate change, taking a precautionary approach, the Flood Risk Assessment recommends finished floor levels are set at 11m AOD. The Pickedmoor Brook is in Flood Zones 2 and 3 and for adjacent development parcels ground floor levels should be set

at 11m AOD or 600mm above ground level, whichever is the higher. The Council wishes to impose a condition requiring groundwater monitoring. However, I am not satisfied that there is sufficient evidence to demonstrate that groundwater flooding is an issue or that the ingress of groundwater into the attenuation ponds would be likely to result in flood risk. I do not therefore consider that the suggested condition is reasonable or necessary.

120. Policy PSP6 in the PSP DPD requires all major greenfield residential schemes to reduce CO<sup>2</sup> emissions by at least 20% below Building Regulations requirements. This is necessary to help combat climate change in accordance with national and local planning policy. An energy statement is therefore to be submitted for approval before or along with the reserved matters to demonstrate how this would be achieved.
121. Taking account of the historic interest of the lands around the Castle and the former deer park a scheme of archaeological investigation is necessary. This will need to be undertaken prior to any works on the site in order to ensure that the results are not compromised by ground disturbance.
122. The report submitted on ground conditions recommended further ground gas monitoring, surface water sampling and geotechnical investigation. If this results in unacceptable risks being found, a programme of remediation works will need to be carried out and subsequently verified. A condition setting out the necessary measures to be taken will ensure that the site is suitable for its intended purposes and that the wellbeing and health of future residents will be assured. A further condition is required to put measures in place if unexpected contamination is encountered during the course of construction.
123. The ES identified the potential for noise impacts to new dwellings and gardens within 60m of Oldbury Lane. It is therefore necessary to ensure that the design and layout of the development provides an acceptable living environment for new residents. For a similar reason, details of noise insulation measures in relation to extraction systems and building plant are required to protect new residents and also any existing residents living close to the noise source. Furthermore, before the retail and community hub is occupied, details are needed of the measures to be taken to protect residents from any odours resulting from hot food preparation.
124. The construction period would inevitably cause some disturbance and inconvenience to nearby residents and road users. A Construction Environmental Management Plan is therefore required to help minimise adverse impacts. This should include the hours of construction and delivery, measures to protect surrounding properties from noise and vibration during building operations, arrangements for the parking of contractors, control of dust and measures to maintain air quality, lorry routing and a means of dealing with issues and complaints.
125. In order to protect ecological interests during the construction period an Ecological Construction Method Statement is necessary to demonstrate how retained habitats would be safeguarded and how site clearance works would be undertaken. Before any are undertaken an up-to-date badger survey is also required, bearing in mind that these animals are highly mobile. This may require a license to be obtained in order to carry out necessary mitigation.

126. In order to achieve a sustainable outcome with high quality green spaces and ecological improvements, a Landscape and Ecological Management Plan is required. This will reflect the principles outlined in the ES. The proposal includes a proposed net gain to biodiversity in accordance with national and local planning policy. A scheme is therefore needed to show how this would be achieved. Nocturnal animals, especially some species of bat, can be sensitive to artificial lighting. It is therefore necessary to require a Lighting Strategy to demonstrate how the impacts will be satisfactorily mitigated.
127. A strategy for the site-wide management of waste and recycling is required in order to ensure that the generated waste is dealt with in a co-ordinated and sustainable way. The retail/ community hub is intended to provide local facilities for people living on the new development as well as nearby to meet some day-to-day needs. It is therefore justifiable to restrict the uses to Use Classes A1, A2 and D1 in line with what is being proposed. Without this the facilities could be used for a range of uses that would not necessarily meet the needs of the development as assessed in the ES.
128. The Council wish to include a requirement for the provision of public art within the development. Policy CS23 in the CS relates to community infrastructure and cultural activity but it does not specifically require proposals to incorporate public art. The Council explained that other developments in Thornbury had made such provision and examples include carved benches and landscape features. Whilst it does not appear to be a formally adopted document, the Council has approved a planning advice note on art and design in the public realm. The Appellants object to the inclusion of this provision on the grounds that it does not meet the necessity tests for conditions and is vague and open ended.
129. I do not agree. To my mind incorporating public art into the scheme would contribute in a positive way to the quality of the development and provide a unique sense of place and identity. It would be for the Commission to consider what would be appropriate and there is much inspiration that could be drawn upon from the rich history of the town and the quality of the landscape that surrounds it. For these reasons I consider the requirement reasonable and necessary and compliant with the Framework and Planning Practice Guidance. In order to ensure that the public art scheme is effectively integrated, the overall concept needs to be submitted at an early stage. The details and implementation timetable can be submitted along with the reserved matters. I have amended the wording to be more concise and relevant to this particular development.

### **THE PLANNING OBLIGATION BY UNILATERAL UNDERTAKING (the UU)**

130. The UU was considered in detail at the inquiry. It was engrossed on 3 November 2022. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the Framework. I have also taken account of the *Community Infrastructure Levy and Section 106 Planning Obligations Guide* SPD (March 2021), which provides support to policy CS6 in the CS. It should be noted that the Deed contains a "blue pencil" clause in the event that I do not consider a particular obligation would be justified in these terms.

131. I requested further information about the financial contributions. I have scrutinised this carefully and I am satisfied that the sums of money sought have been adequately justified. There are the necessary provisions in the Deed to index-link the contributions.

### **Highway improvements**

132. There are various obligations that provide financial contributions to improve capacity and safety. The Highways Contribution of £171,208 covers the cost of the two local A38 junction improvements referred to previously. This is on a pro-rata basis with the Cleve Park and land west of Gloucester Road developments, which would also impact on these junctions. However, it is now proposed to put the money towards improvements to these junctions as part of the wider improvements to the A38 corridor, referred to earlier. This seems to me acceptable as it would result in capacity improvements to mitigate the impact of traffic generated by the appeal development. In the event that the wider A38 works do not come forward, the originally intended improvements would be carried out to these junctions. The Zebra Crossing Contribution of £73,500 would reflect the cost of provision of a new crossing on Gloucester Road close to the Anchor Inn. To mitigate against additional traffic generated by the appeal scheme, it is necessary to provide a safe crossing point on the walking route to Manorbrook primary school and The Castle secondary school.

133. A number of obligations relate to improvements to accessibility and are necessary to allow new residents realistic modal choices as already explained. The Travel Plan Contribution of £375 per dwelling will include sustainable travel vouchers for the first household occupying each dwelling. In addition, it includes a reasonable sum to cover the costs of a Council officer's time to implement and administer the provisions of the Travel Plan. The justification for the £10,000 bus service contribution, which would be used to extend the bus service into the site, is set out in the business case in the updated Transport Assessment. The Bus Waiting Contribution of £20,500 has been costed for provision of two new bus shelters at stops in the town centre with real time information for one of them. The Town Centre Cycle Parking Contribution of £4,000 will cover the cost of providing 3 new cast iron cycle stands each accommodating two cycles in the town centre.

134. The Car Club would be run by an independent operator. The covenants allow the Appellants to choose whether they will make arrangements for the set-up of the Car Club or whether they will ask the Council to do so. If the latter option is chosen, the contribution of £38,000 is a reasonable assessment of the cost of setting up this service and offering free membership to residents for a period of 4 years. If the former option is chosen a monitoring fee of £1,000 is required for the Council to ensure that the Car Club is secured, marketed and taken up over a 4 year period. The £250 per year seems a reasonable sum to cover the time taken by a member of staff for this purpose.

### **Open spaces**

135. The Open Spaces include the allotments, unadopted road verges, the informal recreational open space, the natural and semi-natural open space, equipped play space and any unadopted surface water infrastructure on or under the Open Spaces. These are shown on the Green Infrastructure Parameter Plan, which is appended to the Deed as Plan 4. A covenant requires that a

landscaping scheme and the surface water infrastructure works for a phase has to be approved before development on that phase is commenced. The landscaping scheme includes the hard and soft landscape features with a timetable for completion before 70% of dwellings in a relevant phase are occupied. These provisions are all required in order to meet the needs of the development and also to ensure that there is sufficient space for informal recreation so that protected European sites are not damaged by recreational pressures from the new population.

136. A management and maintenance scheme for the Open Spaces is required upon commencement of development and no dwelling can be occupied until it has been approved. Once completed, the landscape and surface water infrastructure works are to be inspected by the Council to ensure satisfactory completion. Thereafter they are to be managed and maintained in accordance with the aforementioned scheme. There are also clauses about removal of existing hedgerows and provisions for replacement of planting that dies or is removed. The provision for a Management Entity is included to manage and maintain the Open Spaces in perpetuity if the site owners do not wish to take on that role themselves.
137. An Inspection Fee of £21.43 per 100m<sup>2</sup> is required to be paid upon completion of the landscape and surface water infrastructure works for a relevant phase. The Council has provided a detailed justification for this fee. It has given an example from another site and also detailed what would be involved and which staff members would be carrying out the inspections. It is clear that the Council's experience is that multiple visits are often required over a prolonged period. I note that it is about half of the rate that was originally being sought. This is a large site, which would be built out in several phases possibly by more than one housebuilder. In the circumstances I am satisfied that the inspection fee is necessary and proportionate to the appeal scheme.
138. The Outdoor Sports Facilities Contribution comprises £1,199,154.43 to provide or improve the facilities at various sports clubs, schools or playing fields named in the covenant. It also includes £362,942.76 for the maintenance of these new or improved facilities. The contribution is to be paid before 500 dwellings have been occupied. The Appellants object to this contribution on the grounds that there is no evidence of a shortfall or how the money would be spent. Policy CS24 in the CS states that new developments must comply with all the appropriate local standards of open space provision in terms of quantity, quality and accessibility. The Appellants refer to the *Playing Pitch Strategy and Action Plan*. This indicates that in terms of capacity Thornbury has no shortfall. However, although the front cover is dated September 2020, the document itself is dated February 2018. Furthermore, the Council indicated at the inquiry that the assessment was done in 2016. In such circumstances it is not up to date and unlikely to include the new developments that have taken place around the town, including Park Farm.
139. The Council has provided information about existing provision within the vicinity of Thornbury and concluded that there is a shortfall. Although the Appellants have indicated that some sites have been left off the Council's list, several are taken from the *Playing Pitch Strategy and Action Plan*, which as indicated above is not current. Overall, the Council's list seems to me to be more comprehensive and in my opinion provides a more reliable picture of the situation as it presently exists.

140. The contribution has been worked out on the basis of the proposed number of dwellings and an occupation rate of 2.4 persons per dwelling. On the basis of the local standard in the CS of 1.6ha per 1,000 population, the proposed development would generate a requirement for 22,848m<sup>2</sup> of outdoor sports facility space. The Council has put forward an overall cost of £52.484 per m<sup>2</sup>, as set out in the *Infrastructure Delivery Plan* with the appropriate annual uplift.
141. Normally, I would expect to have information about the funded project(s) on which the money would be spent. However, in this case the contribution would not be paid until towards the end of the development project. On the basis of the Appellants' own delivery programme, it seems unlikely that 500 homes would be occupied until 2029/30 at the earliest. Clearly it is unlikely that a fully funded project could be identified so far ahead. It is also relevant to note that the local standards referred to in policy CS24 also include quality of provision. The sort of improvements indicated by Thornbury Town Football Club, Thornbury Rugby Club and Thornbury Lawn Tennis Club would qualify in this regard. Indeed, this sort of improvement meets the criteria within the guidance notes for Section 106 funding provided to applicants by the Council.
142. The maintenance payment is worked out in a similar way and based on a cost per m<sup>2</sup> set out in the *Infrastructure Delivery Plan* with the appropriate uplift. It is necessary to ensure that the facilities provided will be properly maintained and clearly as they will be provided off-site there will be a cost involved in doing so.
143. Policy CS24 indicates that the default position is to provide sport and recreation facilities on site. In this case the Appellants have chosen not to do so but to make a financial contribution instead. It is relevant to note that there is a repayment clause in the Deed for any part of the contributions that remain unspent. In the circumstances, I am satisfied that the contributions are necessary and proportionate to the appeal development.

### **Affordable housing**

144. Provision is made for 35% of the housing to be affordable with 65% social rented units, 5% affordable rented units and 22% shared ownership units. 8% are to be social rented units that are suitable for wheelchair users or disabled people. A site-wide plan is required to be submitted with the first reserved matters to ensure that mixed and balanced communities are delivered across the different phases. For similar reasons the affordable dwellings should not be distinguishable from the market dwellings and only provided in small groups. The social rented and shared ownership dwellings would comprise a mix of 1 and 2 bedroom flats and 2, 3 and 4 bedroom houses. The affordable rented units would comprise 2 bedroom flats and 2 and 3 bedroom houses. I was told at the inquiry that the mix reflected local need.
145. The affordable housing would be offered to a Registered Provider. The obligations make provision for its delivery in two stages on a phased basis, which would be linked to the occupation of the open market housing. The second trigger would be prior to the occupation of no more than 75% of the market dwellings in the phase. Sufficient value should remain in the land to be confident that all of the affordable dwellings would be delivered. Various other covenants are made regarding occupation, management standards

service charges, right to buy and staircasing to ensure that the benefit derived from the affordable provision remains in perpetuity.

146. There is a considerable need for affordable housing in the District. The obligations are necessary to meet that need in accordance with policy CS18 in the CS. This is further discussed in my conclusions.

### **Primary school**

147. There is a covenant to provide a 1.12 ha site for a single form entry primary school and a co-located nursery of 610.5m<sup>2</sup>. The land is broadly identified on Plan 3 to the Deed. Once the Council has approved exactly where the school will be sited or upon the occupation of 200 dwellings, whichever is later, it will be invited to accept transfer of the site. Once that has been completed a contribution of £4,207,899 will be paid to cover the cost of construction of the primary school and £620,000 to cover the cost of the nursery. The justification for the primary school has been considered above. The financial contributions are based on the department for Education Cost Calculator.

### **Self-build and custom housing**

148. Provision is made for at least 5% of dwellings to be custom build dwellings as defined in the *Self-Build and Custom Housing Act* (2015). The phases that will contain the plots require to be identified before development starts. Prior to commencement of a phase containing such plots the number and boundaries of the plots require to be specified, along with information on such matters as delivery, design parameters and plot boundaries. The delivery of the plots is linked to the occupation of the other dwellings and no more than 85% can be occupied until the serviced plots have been provided and marketed. There is to be an agreed marketing strategy and if, after a specified period, the plots are not sold they will be offered for sale at open market value to the Council.
149. The available evidence shows that there is a clear demand for such housing and in January 2022 there were 1,138 entries on the Council's Register, which far exceeds the provision. The obligations are therefore necessary to meet the need and the 5% provision is in accordance with policy PSP42 in the PSP DPD and its supporting *Self-Build and Custom Housebuilding SPD*. This is further discussed in my conclusions.

### **Safeguarded land**

150. An area of land at the eastern end of the site adjacent to Oldbury Lane and identified on Plan 2, is safeguarded for drainage improvements to that road should it be required by the Council before the end of 2024. This would be transferred to the Council for a peppercorn sum for this purpose. If it is not required, it would be used as open space in accordance with the requirements set out in the second schedule dealing with such matters. This is a relatively short-term covenant that seems to me to be reasonable and necessary in order to allow improvement works to the adjoining highway if needed.

### **Conclusions**

151. For the reasons given above and taking account of all of the information provided to the inquiry, I am satisfied that the planning obligations in the UU are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and

kind to the appeal development. They meet the statutory requirements of Regulation 122 in the CIL Regulations and the policy requirements of paragraph 57 in the Framework. I am therefore able to take them into account in my decision.

## **CONCLUSIONS AND PLANNING BALANCE**

152. The appeal proposal is Environmental Impact Assessment development. I have taken the ES and all other environmental information provided before and during the inquiry into account. I have also concluded that in this case the scheme would have no significant effect on the integrity of the European sites, having regard to their conservation objectives.

### *Planning benefits*

153. On a general point, I do not agree with the proposition that a benefit should be ascribed lower weight if it is either policy compliant or ubiquitous. It is difficult to understand why a benefit should be downgraded just because it is delivering an objective that the development plan considers to be important and in the public interest. That approach would not allow the exercise of judgement by the decision-maker that some policy-compliant benefits are more important than others on account of the circumstances of the case. There is no evidence that there is any alternative form of development in the pipeline that would deliver the package of benefits being proposed in this appeal. In any event, the weight to be given to the benefits would depend on the particular circumstances, both temporal and spatial, and when considered individually and together. In that respect they are likely to be unique.
154. It is relevant to note that the application is an outline proposal for “up to” 595 dwellings. Whilst it is possible that a lower number could be proposed at a later stage, no evidence has been given that this is intended or likely. In such circumstances, the Council would not be in a position to require a reduction at reserved matters stage. All of the evidence to the inquiry and in the Environmental Impact Assessment is on the basis that the maximum number of dwellings would be constructed.
155. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale: *limited, moderate, significant and substantial*.
156. The shortfall in five year supply is some 0.23 years and this amounts to some 335 dwellings. I understand that there are housebuilders interested in the site and that Barwood Development Securities Ltd have a good track record of securing deliverable schemes. However, it is unlikely that the scheme would be delivering until the final year of the five year assessment period (2025/6). The Appellants anticipate that delivery, based on the adjacent Park Farm development, would be about 91 dwellings a year. This would make an important contribution to reducing the housing shortfall. Delivery would continue beyond the five year assessment period and the contribution made in terms of the longer term should also be given weight. This is especially relevant in this case because it is unlikely that a plan-led solution to housing delivery will be in place for some years to come. For all of these reasons, I attribute significant weight to the proposed housing delivery.
157. The need for affordable housing is disputed. The CS identifies an annual need for 903 affordable homes, but the Examining Inspector recognised that this

- could not be achieved and set an affordable housing target of 35% on large sites as a viable objective. The evidence of the Appellants, which does not appear to be disputed, is that to date annual provision has only been about 27%. However, the CS affordable needs assessment was based on the 2009 SHMA, which was subsequently superseded and cannot therefore be relied upon. In 2021 the *West of England Local Housing Needs Assessment (LHNA)* was published as part of the evidence base to the draft *Spatial Development Strategy*. Although it has not been scrutinised through public examination it is the most up-to-date information available. This finds that in the period between 2020 and 2035 there will be a need for about 411 affordable homes per annum and 370 over a longer timeline between 2020 and 2040.
158. Looking at the information on the Council's Housing Register, in April 2021 there were 55 households who were homeless, 229 households owed a duty under the Housing Act and 1,327 occupying insanitary or overcrowded housing. It seems to me that these households are unlikely to be adequately housed or able to access alternative housing through their own resources. The Council's evidence is that currently it is forecasting to deliver over 500 affordable homes a year over the next 5 years. However, I am not convinced that this is realistic, especially in view of my conclusions on overall housing land supply.
159. The Appellants have submitted information on the expected delivery of affordable housing on each site within the Council's housing trajectory and concludes that there would be a supply of 1,569 affordable homes within the five year period. This is of course on the basis of the Appellants' housing supply evidence, with which I largely concur. Making an adjustment for the 2 sites that I consider would deliver more dwellings<sup>3</sup> there would be an annual delivery of approximately 330 affordable homes over the five year assessment period.
160. On the basis of the LHNA there would therefore be a considerable shortfall in affordable housing provision. The Housing Register also indicates that there are many families in need of a home at the present time and there is little reason to believe that this situation is going to improve. Indeed, the Council's website indicates that there is a high demand for social housing in the district and a shortage of properties. It states that many applicants will never receive an offer of housing. For all of the above reasons, I consider that the 208 units that would be delivered by the appeal scheme is a benefit of substantial weight.
161. In addition to the 35% affordable housing, the proposal would include 5% as custom-built plots. As mentioned earlier, the demand appears to be far greater than the delivery, and I note that the Council is not meeting its legal duty for provision in this respect. The 30 plots from the appeal development would be a benefit of significant weight.
162. The provision of the sustainable transport link and the extension to the bus service would help to improve the accessibility credentials of the site. However, on the evidence it would also make the provision for the Park Farm development viable. Without the appeal scheme it seems unlikely that the

---

<sup>4</sup>These are sites 134ab and 134c – see paragraphs 74 and 76 above.

adjoining development will have a proximate bus service for its residents to use. For this reason, I consider it to be a benefit of significant weight.

163. There are a number of provisions that are over and above what is required as mitigation and therefore that offer a wider public benefit. These include the net gains to biodiversity; the provision of informal recreation space; the provision of cycle stands in the town centre; the strategic highway works and the zebra crossing at Gloucester Road. The provision of the new school and retail/ community hub would also be available to the existing population, most particularly the residents of Park Farm. These are each ascribed moderate weight as benefits of the scheme.
164. There would be new jobs provided during the construction phase and also during the operative phase of the development including at the new school, nursery and retail/ community hub. The local economy would also benefit by new residents supporting local shops and facilities, which would contribute to improving the vitality and viability of the town. These economic benefits are ascribed moderate weight.
165. The safeguarding of land for drainage improvements to Oldbury Lane would be for a relatively short period of time and it is not known whether it will be required or not. In such circumstances it has limited weight as a public benefit.
166. Drawing all of the above matters together it seems to me that the appeal proposal would offer a wide range of public benefits. Whilst individually the weight that I have given them varies, when taken together I consider that the package can be given very substantial weight on the positive side of the planning balance.

#### *The heritage balance*

167. For the reasons given in the second issue there would be harm to the significance of a number of heritage assets by virtue of the appeal development being within their setting. These include the Thornbury Castle assemblage, the Church of St Mary the Virgin, The Sheiling School and Thornbury Conservation Area. The Church and parts of the Castle are Grade I heritage assets, which are considered to be of exceptional interest and rarity. Only 2.5% of all listed buildings in England are Grade I. There are also Grade II assets, including a Registered Park and Garden within the Castle Assemblage and the Castle is also recognised as an Ancient Monument. In each case the harm would be less than substantial in nature and in my judgement at the lower end of the spectrum apart from Sheiling School, where I have concluded that the harm would be at the lowest end of the spectrum.
168. In applying paragraph 202 of the Framework, I am mindful that the balance is not even, and that great weight and importance must be given to the conservation of the heritage assets in accordance with paragraph 199. Heritage harm is a function of the importance of the asset and the magnitude of the harm, and I have had particular regard to the fact that some of the heritage assets are of exceptional value when undertaking the balancing exercise. However, there would be a package of public benefits to which I have attributed very substantial weight. In my judgement it would clearly outweigh the harm that would arise to the significance of the heritage assets

either individually or together in this case. The appeal proposal would therefore be in accordance with national policy in this respect.

*The planning balance*

169. The most important policies in the determination of this appeal are policies CS5, CS9, CS34 and PSP17. For the reasons I have given I consider that they are not consistent with national policy in the Framework and are therefore out-of-date. Even if that were not to be the case, the Council is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 11d) in the Framework is engaged. There are policies in the Framework that protect designated heritage assets but for the reasons given above the appeal proposal does not conflict with these policies so there is no clear reason for refusing it on these grounds. Paragraph 11d)i) does not therefore apply in this case, which means that the appropriate approach is to apply the tilted balance under paragraph 11d)ii) of the Framework.
170. The appeal proposal would conflict with the spatial strategy because it would involve development on a greenfield site outside of the settlement boundary of Thornbury. For the reasons I have given, the conflict with the relevant policies is a matter of limited weight. However, even if that reasoning is not accepted, it remains the case that the Council has less than 5 years of deliverable sites to meet its housing needs. This means that a policy-led solution to housing needs cannot be achieved and that the housing required cannot all be accommodated within the confines of the settlement boundaries. The conflict with the development plan policies in this regard is therefore a matter of limited weight.
171. The harm to heritage assets has already been considered and found to be outweighed by the public benefits. Nevertheless, this harm, is a matter of very great weight and importance and therefore is added to the negative side of the planning balance. 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. I have concluded that there would be shortcomings in terms of accessibility and that journeys would continue to be made by car. This is a disbenefit to which I attribute moderate weight.
172. However, in my judgement these adverse impacts would not significantly and demonstrably outweigh the very substantial benefits, when assessed against the policies of the Framework taken as a whole.
173. Turning now to the development plan, the appeal proposal would be contrary to policies CS5, CS9 and CS34 in the CS and policy PSP17 in the PSP DPD. These are considered to be the most important policies in determining this application and so the appeal proposal would conflict with the development plan when taken as a whole. However, in this case there are material considerations that indicate that the decision should be made otherwise than in accordance with the development plan. Most important of these is the Framework and the conclusion that the adverse impacts would not significantly and demonstrably outweigh the benefits.

174. I have taken account of all other matters raised in the representations and at the inquiry, but I have found nothing to change my conclusion that the development would be acceptable and that the appeal should be allowed.

*Christina Downes*

INSPECTOR

## **ANNEX A: APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Andrew Fraser-Urquhart	King's Counsel, instructed by the Head of Legal Services, South Gloucestershire District Council
<i>He called:</i>	
Ms E Paterson BA(Hons) PG Dip Law PG Dip Legal Practice MRTPI	Strategic Major Sites Manager, South Gloucestershire District Council
Mr R Burns BA (Hons) MCD	Place & Context Ltd
*Mr J Ryan MA MRTPI	Principal Planner, South Gloucestershire District Council
*Mr D Jones BA(Hons) PG Dip Urban & Regional Planning PG Urban Design MRTPI	Principal Planner Urban Design, South Gloucestershire District Council
*Ms L Blakemore BA(Hons)	Planning Officer, South Gloucestershire District Council
*Ms K Cox HNC Housing Studies HNC Architecture and building studies	Housing Enabling Officer, South Gloucestershire District Council
**Ms L Neve LLB(Hons) MSc	Planning Solicitor, South Gloucestershire District Council
**Ms H Cameron Dip Horticulture	Public Open Space Officer, South Gloucestershire District Council

### **FOR THE APPELLANTS:**

Mr David Manley	King's Counsel, instructed by Mrs L Marjoram, Bird, Wilford & Sale
<i>He called:</i>	
Mr A Crutchley BA(Hons) PGDip(Oxon) MCifA	Director of EDP
Mr N Mathews MA MTCP MRTPI	Director of Savills
***Mr P Richards BA(Hons) DipLA CMLI Dip Urban Design	Director of The Richards Partnership
***Mr N Thorne BSc MSc MCIHT MTPS	Director of Community Development, South-West, Stantec UK Ltd
*Mr B Pyecroft BA(Hons) DipTP MRTPI	Director of Emery Planning
**Mrs L Marjoram LLB	Solicitor with Bird Wilford & Sale
**Ms R Mitchell	Planning Director of Barwood Land

\*Took part in housing land supply round table session (RTS) only

\*\*Took part in Planning Obligation RTS and/ or planning conditions RTS

\*\*\*Took part in question-and-answer sessions only

INTERESTED PERSONS:

Ms M Tyrrell	South Gloucestershire Ward Councillor and Chair of the Planning Committee of Thornbury Town Council
Mr C Gardner	Co-Chair of Thornbury Residents Against Poorly Planned Development (TRAPP'D)
Mr K Woosnam	Local resident
Mr R Hall	Speaking on behalf of Ms N Jordan, local resident and also on his own behalf as co-Chair of TRAPP'D
Mr R Taberner	Local Resident

**ANNEX B: DOCUMENTS**

- 1 Updated statement of common ground on housing supply and delivery
- 2 Statement delivered orally to the inquiry by Mr R Taberner
- 3 CV of Mr R Burns, heritage witness to the Council
- 4 Statement delivered orally to the inquiry by Mr K Woosnam
- 5 Cabinet Report on the Local Plan Delivery Programme 2022-2025, submitted by the Council
- 6 Site visit map and itinerary
- 7 Letter from Professor M Boddy, Pro Vice-Chancellor, UWE Bristol regarding student accommodation (21 March 2022)
- 8 Statement of Ms N Jordan delivered orally to the inquiry by Mr R Hall
- 9 Residential site assessments deliverability questionnaire 2022, Crest Nicholson & Sovereign for Land at Harry Stoke (phases 1-5), submitted by the Council
- 10 Statement from TRAPP'D regarding capacity and location of Marlwood School
- 11 Poll of Park Farm residents undertaken by Mr Taberner regarding proposed benefits of the appeal development
- 12 Plan booklet of proposed off-site highway works, submitted by the Appellants
- 13 Written response by Mr Thorne to the Inspector's questions on the Local Transport Plan
- 14 Land ownership details and plan, submitted by the Appellants
- 15 Written response by Mr Scholefield, the Appellants' ecology expert, to the Inspector's questions on Biodiversity Net Gain
- 16 Written representation by Dr R McKibbin, local resident
- 17 Scott schedule setting out the final position of the main parties on the disputed housing sites following the housing round table session
- 18 Briefing note relating to bus services at Park Farm, submitted by the Council
- 19 Ecclesiastical parish boundary – present day and in 1888, submitted by the Appellants
- 20 Local Plan 2020 Phase 2 consultation – urban, rural and key issues
- 21 Expressions of interest by housebuilders to the appeal site,

- submitted by the Appellants
- 22A List of inquiry participants on behalf of the Council
- 22B List of inquiry participants on behalf of the Appellants
- 23A Note on outdoor sports facilities, submitted by the Appellants
- 23B Addendum note on outdoor sports facilities, submitted by the Appellants
- 24 Response to the outdoor facilities note, submitted by the Council
- 25 Note on open space inspection fee, submitted by the Council
- 26 Note by EFM on local education facilities and the proposed new school, submitted by the Appellants
- 27 Savills delivery rate note, submitted by the Appellants
- 28 Additional information on the compliance of planning obligations with Regulation 122 of the CIL Regulations, submitted by the Council
- 29 Travel Plan cost per dwelling breakdown, submitted by the Council
- 30 Car club contribution and monitoring fees, submitted by the Council
- 31 A38/ Church Road capacity improvement costings, submitted by the Council
- 32 Plan showing the Thornbury Road/ A38 junction improvement, submitted by the Appellants
- 33 Proposed zebra crossing and speed reduction feature costing, submitted by the Council
- 34 Response by the Council to the Inspector's questions about specific planning conditions
- 35 Community Infrastructure Levy and Section 106 Planning Obligations Supplementary Planning Document (March 2021)
- 36 Draft planning conditions following discussion at the round table
- 37 Council's Art and Design in the Public Realm – Planning Advice note
- 38A Morton Way, Thornbury, Public Art Strategy, submitted by the Council
- 38B Morton Way, Thornbury, Artist's Brief, submitted by the Council
- 39A Land at Crossways, Morton Road, Thornbury – Public Art Plan, submitted by the Council
- 39B Land at Crossways, Morton Road, Thornbury – Artist's Response, submitted by the Council
- 40 Planning Obligation by Unilateral Undertaking, dated 3 November 2022

## **ANNEX C: SCHEDULE OF PLANNING CONDITIONS**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") in any phase shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase begins and the development shall be carried out as approved.
2. Any application for the approval of the reserved matters for the first phase of the development shall be made to the Local Planning Authority before the expiration of 12 months from the date of this permission. Any application for approval of the reserved matters for any remaining phases shall be made to the Local Planning Authority before the expiration of three years from the date of the permission.
3. The development hereby permitted shall begin no later than 12 months from the date of approval of the final reserved matters for that phase, and development of any subsequent phase shall begin no later than 12 months from the date of approval of the final reserved matters for that phase.
4. The submitted details shall be in accordance with the approved parameter plans (listed below):
  - Site Boundary Plan – Drawing Ref: 27982/9000 Rev H.
  - Land Use and Access Parameter Plan – Drawing Ref: 27982/9601 Rev G.
  - Scale Parameter Plan – Drawing Ref: 27982/9603 Rev I.
  - Green Infrastructure Parameter Plan – Drawing Ref: 27982/9604 Rev L.
  - Concept Site Access Layout – Drawing Ref: 39209/5501/SK15 Rev A.
  - Sustainable Travel Link Plan – Drawing Ref: 39209/5501/SK25 Rev A.
5. Any reserved matters application shall be in accordance with the Design Parameters and Design Strategies of the approved Design and Access Statement (Dated March 2021).
6. Alongside the reserved matters for each phase details shall be provided of the following:
  - a) Layout, scale and appearance, including all building facing materials and finishes.
  - b) Details of access arrangements including: the internal highway hierarchy; all carriageway, footway, cycleway and shared surface widths and surface material finishes for the highways, footpaths, cycle ways, private drives and all other hard surfaces.
  - c) Car and cycle parking facilities.
  - d) Soft and hard landscaping of the site including details of screen walls, fences and other means of enclosure.
  - e) Details of existing and proposed ground levels and proposed finished floor levels and building heights.
  - f) Broadband connection infrastructure timetable for implementation.
  - g) Details of a play strategy.
  - h) Details of the pedestrian and cycle links through the site.
  - i) A combined drainage, landscaping and street lighting plan.
  - j) Minor artefacts and structures (eg furniture, play equipment, refuse or other storage units, signs, lighting).

- k) Proposed and existing functional services above and below ground (eg drainage power, communications cables, pipelines indicating lines, manhole); retained and proposed landscape features, including trees and hedgerows and proposals for restoration where relevant.
  - l) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
7. Prior to or along with the submission of the first reserved matters application, a Phasing Strategy for the development shall be submitted to and approved in writing by the Local Planning Authority.

The Phasing Strategy shall identify the stages at which each element of the proposed development shall be commenced and made available for use. The elements shall include:

- a) The general locations of residential and non-residential uses including the local centre, allotments and primary school site.
- b) The allocation of floor space within the Retail / Community hub.
- c) The general location of open spaces, green infrastructure and surface water drainage features.
- d) The approximate number of market and affordable homes and custom-build homes plots to be provided for each phase.
- e) Accesses for pedestrians, cyclists, buses and other vehicles.
- f) The phase(s) where public art may be located.
- g) Transport infrastructure for all modes of travel to connect each phase or reserved matters application to the existing highway network and the adjacent Park Farm site.
- h) Identification of locations for bus stop facilities within the site, within 400m of each occupied dwelling, in accordance with one of the two approved bus stop strategies:
  - PBA Transport Assessment (Dated December 2019) Figure 5.1 B. Bus access via Alexandra Way bus link.
  - PBA Transport Assessment (Dated December 2019) Figure 5.2 B. Bus access via Butt Lane and Barley Fields.

Any subsequent amendment to the approved Phasing Strategy shall be submitted to and approved in writing by the Local Planning Authority in the form of a revised Phasing Strategy.

The development shall be carried out in accordance with the approved Phasing Strategy, including any approved revisions.

8. The primary street through the development shall have a minimum carriageway width of 6.5m and follow the general alignment of the primary street route identified on the approved Land Use and Access Parameter Plan (Drawing Ref: 27982/9601 Rev G).
9. No dwelling, community or commercial facility shall be occupied until car and cycle parking has been provided for that dwelling, community or commercial facility in accordance with details approved through Condition 6.

10. Prior to the commencement of development on a phase, a scheme for the installation of Electric Vehicle charging infrastructure for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the specification of the ducting infrastructure and charging facilities and a plan showing the locations of the ducting infrastructure and charging facilities for residential and non-residential uses and appropriate public locations to be delivered within that phase. Development of that phase shall be carried out as approved before the residential and non-residential buildings on that phase are first occupied and the public locations are opened for use.
11. No dwellings shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be based on the principles set out in the Framework Travel Plan (January 2021) and shall include modal targets to achieve its objectives and a timetable for their achievement. The Travel Plan shall thereafter be implemented in accordance with the approved details.
12. No more than 50 dwellings shall be occupied until a scheme of localised road widening on Oldbury Lane and Butt Lane has been completed generally in accordance with Stantec Drawings 39209/5501/SK24 Rev A and 39209/5501/SK23 Rev A.
13. No dwellings shall be occupied until the Sustainable Transport Link along Buttercup Road, to include a bus gate and camera control/ CCTV, has been completed generally in accordance with Stantec Drawing 3909/5501/SK25 Rev A.
14. No dwelling shall be occupied until the signalisation improvement scheme at the junction of Butt Lane, Gloucester Road and Morton Way has been completed generally in accordance with Stantec Drawing 39209/5501/SK08 Rev H.
15. No more than 100 dwellings shall be occupied until the improvements on the A38 at the junction with the B4509 have been completed generally in accordance with Stantec Drawing 39209/5501/SK37 rev B.
16. No dwelling shall be occupied until at least one of the development accesses onto Oldbury Lane and the supporting highway works have been completed generally in accordance with Drawing 39209/5501/SK15 Rev A including street lighting from the site access to Butt Lane and provision for a reduction in the national speed limit to 40mph on Oldbury Lane.
17. The bus stops shall be provided with a raised boarding platform, shelter, seating, lighting and real time passenger information and installed in accordance with the agreed Phasing Strategy in condition 7.
18. No more than 100 dwellings of the development hereby permitted shall be occupied until the improvement scheme identified for M5 Junction 14, as shown on Stantec drawing reference 39209/5501/SK31, has been completed and is open to traffic.

19. No development other than ground clearance works shall be carried out until a Surface Water Drainage Strategy incorporating sustainable drainage principles for the whole of the development site has been submitted to and approved in writing by the Local Planning Authority. The strategy shall be in accordance with the Flood Risk Assessment (ref: 39209/4001/ rev G) by Stantec, dated 23 January 2020 and drawing 39209/4001/SK01 C. It shall include details of impermeable areas draining to surface water infrastructure, the size and location of the attenuation structures, the phasing of surface water drainage infrastructure including source control measures and a timetable for implementation. The development shall be carried out in accordance with the approved strategy and timetable
20. Finished ground floor levels across the development shall be set to 11.0m AOD. At the edge of Flood Zone 2 finished ground floor levels shall be set 600mm above ground level or 11.0 m AOD, whichever is highest as indicated in section 5 and Figure 3 of Appendix A in the Flood Risk Assessment (ref: 39209/4001/ rev G) by Stantec, dated 23 January 2020.
21. Prior to or along with the submission of the reserved matters application(s) for a particular phase an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. This will provide details of how energy saving measures will be incorporated into the design and how carbon dioxide emissions will be reduced from the total residual energy consumption by at least 20% (based upon Part L of the Building Regulations at the date of the outline planning permission) through on-site renewable and/or low carbon energy generation. Development shall be carried out in accordance with the approved details.
22. Prior to the commencement of development including any exempt infrastructure or remediation works, a written scheme of investigation, based on the results of the geophysical survey produced by Sumo Survey dated March 2018 and Results of an Archaeological Trench Evaluation dated May 2018, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall set out the need for, and extent of, any subsequent detailed mitigation, outreach and publication strategy including a timetable for the implementation and phasing of the mitigation strategy. Thereafter each phase of development shall be carried out in accordance with the approved scheme.
23. Prior to the commencement of development of a particular phase, the additional monitoring and investigation recommended in the Combined Phase 1 and Phase 2 Ground Condition Assessment, by Peter Brett Associates LLP, dated September 2018, shall be carried out. The findings shall be submitted in a report for the written approval of the Local Planning Authority and shall include a conceptual model of the potential risks to human health; property/buildings; and ground waters.

Where unacceptable risks are identified, the report submitted shall include an appraisal of available remediation options; the proposed remediation objectives or criteria and identification of the preferred remediation option(s). The programme of the works to be undertaken shall be described in detail and shall include the methodology that will be applied to verify the works have been satisfactorily completed.

The approved remediation scheme shall be carried out before the particular phase of development is occupied.

Prior to first occupation within any particular phase, a report shall be submitted to and approved in writing by the Local Planning Authority to verify that all necessary remediation works have been satisfactorily completed.

24. Any contamination found during the course of construction of the development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found additional remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development (or relevant phase of development) is resumed or continued.
25. Prior to the submission of the reserved matters application(s) for any phase that includes residential development within 60m of Oldbury Lane details shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that through mitigation, design and site layout, dwellings and their gardens will be protected from the impact of road traffic noise having regard to BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise*. The development shall be carried out in accordance with the approved details before the occupation of any dwelling to which those mitigation measures relate.
26. Any building plant, extraction systems or externally located equipment shall be acoustically insulated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of its use. The scheme shall ensure that the rated noise level at the boundary of the nearest extant or proposed noise sensitive property will not increase above the existing background noise level in accordance with BS 4142:2014+A1:2019 *Methods for rating and assessing industrial and commercial sound*.

Any mitigation measures proposed to attain this level shall be clearly identified.

The scheme shall be implemented as approved prior to the commencement of use of the plant or equipment and shall be retained and maintained in accordance with the manufacturer's instructions for the duration of the use.

27. Prior to occupation of the retail/ community hub full details of the proposed extraction and odour abatement system for any hot food outlets within that building shall be submitted to and approved in writing by the Local Planning Authority. The odour abatement system shall comply with the principles of best practice contained within the EMAQ technical guidance, *Control of Odour and Noise from Kitchen Exhaust Systems*. The development shall be

carried out in accordance with the approved details and installed and maintained in accordance with the manufacturer's instructions.

28. No development shall take place on any phase until a Construction Environmental Management Plan (CEMP), has been submitted to and agreed in writing by the Local Planning Authority. The CEMP shall provide for:
- a) Measures to prevent flood risk and drainage impacts, including to water quality, in accordance with best practice contained in the *SuDS Manual* and *Construction of SuDS* guidance.
  - b) Processes for keeping local residents informed of works being carried out and dealing with complaints including contact details of the Site Manager.
  - c) Hours of construction and deliveries to and removal of plant, equipment, machinery and waste from the site.
  - d) Measures to control the migration of mud from the site by vehicles during construction.
  - e) Measures to protect surrounding properties from construction noise and vibration in accordance with the standards in BS5228: Code of practice for noise and vibration control on construction and open sites. Noise.
  - f) Measures for controlling dust and maintaining air quality on site, including details of street sweeping, street cleansing and wheel washing facilities.
  - g) Measures for controlling the use of site lighting whether required for safe working or for security purposes.
  - h) Locations for the loading, unloading and storage of all plant, machinery and materials including oils and chemicals to be used in connection with the construction of the development.
  - i) Measures for the control and removal of spoil and wastes.
  - j) Access arrangements for visitors, constructors and deliveries.
  - k) Measures for the storage, landing, delivery and use of fuel oil, and how any spillage can be dealt with and contained.
  - l) Arrangements for the parking of contractors, site operatives and visitors.
  - m) A lorry routing schedule excluding Barley Fields and Buttercup Road.
  - n) Evidence of membership of the *Considerate Constructors Scheme* and the induction programme for the workforce highlighting pollution prevention and awareness.
  - o) Details of security hoardings.
  - p) Tree protection measures in accordance with the Appendix A of the Arboricultural Impact Assessment, dated January 2020.
  - q) A precautionary working method statement in order to protect any badger setts which are present.
  - r) Neighbouring residential premises shall be advised of any unavoidable late night or early morning working which may cause disturbance. Any such works shall be notified to the Environmental Services Department on (01454) 868001 prior to commencement.

The approved CEMP shall be adhered to throughout the construction period.

29. An Ecological Construction Method Statement (ECMS) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, including groundworks and vegetation clearance. The ECMS shall detail how all retained semi-natural habitat will be

safeguarded during the construction phase (including from pollution incidents) and detail a precautionary method of clearing vegetation to avoid harm to wildlife, including birds and hedgehogs. All works shall be carried out in accordance with the approved ECMS.

30. A pre-works badger survey shall be undertaken by a suitably qualified ecologist no more than 3 months prior to the commencement of works and/or clearance of vegetation on a particular phase to establish use of that part of the site by badgers. If required, a license shall be obtained from Natural England and any mitigation shall be carried out in accordance with the terms of the license. A copy of the license shall be submitted to the Local Planning Authority prior to commencement of development on the phase to which that license relates.
31. Prior to commencement of development of a particular phase, a Landscape and Ecological Management Plan (LEMP) for that phase shall be drawn up and agreed in writing by the Local Planning Authority. The LEMP shall accord with the relevant principles set out in the agreed Design and Access Statement and Green Infrastructure Parameter Plan.

The LEMP shall include:

- a) Details of all existing important landscape and habitat features to be retained, and managed thereafter (including hedges, scrub, streams).
- b) Details of any new landscape and habitat features to be created and managed thereafter (including species-rich grassland (buffers), woodland/scrub and ponds).
- c) Habitat Creation: 13.75ha of Parkland (comprising wildflower meadow, SuDS basins and amenity grassland); 0.83ha plantation broadleaved woodland; 0.78km of new and translocated hedgerow; new scattered broadleaved trees, and 0.03ha (three) ponds.
- d) SuDs design to include wetland habitat of biodiversity value.
- e) A minimum of 10 hibernulae created in suitable locations.
- f) A range of nest boxes, including a minimum of 100 boxes on buildings and 50 boxes on retained trees/woodland. The scheme shall include the type and location of all nest boxes and design features, to cover a variety of species including starling, house martin, swift and house sparrow.
- g) Additional bat roosting habitat, including a minimum of 100 boxes on buildings and 50 boxes on retained trees/woodland. The scheme shall include the type, location and design of the bat boxes.
- h) Inclusion of a hedgehog pass in each boundary fence, and a gap under close board fencing.
- i) Project Site boundary management adjacent to the Park Mill Covert SNCI to include fencing and planting within the development site to prevent direct access.
- j) Ecological information provided in Homeowner Packs which will include information on key ecological features, and the proposed mitigation and enhancement measures.
- k) Where residential gardens abut hedgerows, fencing will be post and wire mesh only.
- l) Inclusion of inset kerb stones around gully pots within highway and drainage strategy.

- m) Detailed design of public-realm lighting to minimise adverse effects on bats, otters and badgers.
- n) A programme of monitoring of all works for a period of 5 years. The programme shall include details of how the aims and objectives of the LEMP will be achieved and maintained, including how any remedial measures will be agreed and implemented if they are required.

All works shall be carried out in accordance with the approved LEMP.

32. Prior to the commencement of development of a particular phase, a Lighting Design Strategy for that phase shall be submitted to and approved in writing by the Local Planning Authority. The Lighting Design Strategy shall address potential impact on biodiversity as described in the Ecological Chapter of the Environmental Statement and shall include:
- a) The identification of those areas of the site that are of particular importance to nocturnal animals, including bats. In particular this concerns breeding sites, resting places and important routes used to access key areas of territory and/or for foraging.
  - b) Details of external lighting to be installed with appropriate lighting contour plans and technical specifications to show how nocturnal animals, including bats, would not be adversely affected.

All works shall be carried out in accordance with the approved lighting scheme.

33. No development shall take place, including ground works and vegetation clearance, until a scheme for offsetting biodiversity impacts to achieve net gain based on the prevailing DEFRA guidance (at the date of the outline planning permission), has been submitted to and approved in writing by the Local Planning Authority. Any subsequent changes to the approved details shall be submitted to and approved in writing by the Local Planning Authority, on the basis that any changes shall still ensure a biodiversity net gain will be achieved across the development.

The development shall be implemented and maintained in accordance with the approved details (including any subsequent approved changes).

34. No development other than ground clearance works shall be carried out until a Public Art Plan for a site-specific scheme of Public Art within the development has been submitted to and approved in writing by the Local Planning Authority. Detailed designs, which shall be in overall accordance with the site-wide Public Art Plan, shall be submitted to and approved in writing by the Local Planning Authority alongside the reserved matters for the relevant phase(s) and shall include a timetable for installation. The Public Art Plan and subsequent details shall be prepared having regard to the recommendations in the Council's Art and Design in the Public Realm - Planning Advice Note. Thereafter the artwork(s) shall be installed in accordance with the approved details and timetable and shall be retained and maintained in accordance with the artist's instructions.
35. Prior to or alongside the submission of the first reserved matters application a site-wide waste management and recycling strategy shall be submitted to

and approved in writing by the Local Planning Authority. The strategy shall include measures to control the use, sorting, storage and collection of waste material and recycling from residential and commercial uses on site, including on site composting. The development shall be carried out in accordance with the approved details.

36. The retail/ community hub hereby approved shall only be used for activities within Classes A1, A2, A3 and D2 Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification.

*End of conditions 1-36*