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SOUTH GLOUCESTERSHIRE CORE STRATEGY
EXAMINATION IN PUBLIC

MATTER 1 – LEGAL COMPLIANCE/
PROCEDURAL MATTERS STATEMENT

On behalf of:
WELBECK STRATEGIC LAND LLP

May 2012

CONTENTS

<i>Chapter</i>	<i>page</i>
1. INTRODUCTION	3
2. LEGAL COMPLIANCE/ PROCEDURAL MATTERS	5

1. INTRODUCTION

1. This Statement has been prepared by Dominic Lawson Bespoke Planning on behalf of Welbeck Strategic Land LLP (hereafter “Welbeck”). Welbeck has land interests at Hacket Farm, Morton Way South, Thornbury.
2. This Statement responds to the Inspector’s questions posed for the Matters for Examination as detailed in the Programme for the Examination of the South Gloucestershire Core Strategy, 25 April 2012. This Statement deals with questions relating to Matter 1 – Legal compliance and Procedural Matters.
3. We also refer the Inspector to Welbeck’s previous submissions on the Core Strategy. Welbeck has submitted representations in relation to the Core Strategy on six previous occasions as indicated below. All representations submitted still stand.

August 2010 representation on Core Strategy pre-submission version (SGC ref – 4038145/1539) comprising an A3 folio of documents:

- Strategic Overview (Barton Willmore);
- Planning (Barton Willmore);
- Historic Environment (Woodhall);
- Transport (Peter Brett Associates);
- Flood Risk & Surface Water Drainage (Peter Brett Associates);
- Mineral Resource Assessment (Peter Brett Associates);
- Landscape (Cooper Partnership), and
- Urban Design (Gaunt Francis).

February 2011 Representation to Core Strategy submission version (SGC ref – 4038145/15) comprising:

- Representation (Dominic Lawson Bespoke Planning);
- Appendix 1- Statement of Community Involvement in relation to Morton Way South, Thornbury;
- Appendix 2 – Screening Opinion, from South Glos Council confirming no Environmental Impact Assessment would be required for development of up to 500 dwellings at Morton Way South, Thornbury;
- Appendix 3 – Compendium of Relevant Extracts of Action Notes Relating to the Core Strategy from meetings of the Future Growth and DPD Policy Advisory Group, provided by South Glos Council under the Environmental Information Regulations;
- Appendix 4 – Freedom of Information Release from South Glos Council regarding Castle School, 13 December 2010;
- Appendix 5 – Castle School Outstanding Ofsted Report;
- Appendix 6 – Park Farm Landscape and Visual Comments (Cooper Partnership for Welbeck);
- Appendix 7 – Park Farm Heritage Comments (Woodhall for Welbeck);
- Appendix 8 – Park Farm Transport and Flood Risk Comments (including Hydraulic Modelling Comments at Appendix 8a) (Peter Brett Associates for Welbeck);
- Appendix 9 – Park Farm Transport Appraisal Comments (Peter Brett Associates for Welbeck);

- Appendix 10 – Thornbury Walking Routes Analysis;
- Appendix 11 – Ecological Report for Morton Way South;
- Appendix 12 – Analysis of Sustainability Appraisal Appendices 10 and 11 (Dominic Lawson Bespoke Planning);
- Appendix 13 – Sustainability Appraisal Transport Review (Peter Brett Associates);
- Appendix 14 – Comments on Sustainability Appraisal Appendices (Peter Brett Associates).

May 2011 – Comments on Planning for Growth Statement (SGC ref – 4038145/3) comprising:

- Comments (Dominic Lawson Bespoke Planning and Roger Tym & Partners);
- Appendix 1A – Change in Job in English Districts, 2000-2008;
- Appendix 1B – Change in Population of English Districts 2000-2009;
- Appendix 1C – Change in Job in English Districts, 2000-2008 – sorted by absolute numbers;
- Appendix 1D – Change in Population of English Districts 2000-2009 – sorted by absolute numbers;
- Appendix 2 – Thornbury Household Projection Methodology.

July 2011 – Comments on Filton Airfield Position Statement, June 2011 (Dominic Lawson Bespoke Planning) (SGC ref – 4038145).

September 2011 – Comments on Draft National Planning Policy Framework (Dominic Lawson Bespoke Planning) (SGC ref – 4038145/39).

February 2012 – Comments on proposed revisions to the draft Core Strategy Post-Submission version proposed changes (Dominic Lawson Bespoke Planning) (SGC ref - Reference 4038145) comprising:

- Comments (Dominic Lawson Bespoke Planning);
- Appendix W1: Housing Needs Evidence, Representations on behalf of Welbeck Strategic Land LLP, February 2012, Roger Tym & Partners;
- Appendix W2: South Glos Council's *Assessment of the cultural heritage issues relating to potential growth areas around Thornbury*, January 2010;
- Appendix W3: Freedom of Information Cover Letter from South Glos Council, January 2012;
- Appendix W4: Historic Environment, Representations on behalf of Welbeck Strategic Land LLP, February 2012, Woodhall Planning & Conservation;
- Appendix W5: Landscape and Visual Assessment, February 2012, Cooper Partnership;
- Appendix W6: TN02 Flood Risk, February 2012, Cannon Consulting;
- Appendix W7: TN01 Highways and Transport, February 2012, Cannon Consulting, and
- Appendix W8: Report of Community Planning Event, January 2012.

2. LEGAL COMPLIANCE/ PROCEDURAL MATTERS

4. Welbeck provided representations on the draft National Planning Policy Framework (September 2011). The National Planning Policy Framework has since been published, March 2012.

5. We are providing a response to question 2:

Is the Core Strategy (CS) in general conformity with the National Planning Policy Framework (the Planning Framework) or, if not, is it possible to introduce modifications without detracting from the Council's overall strategy for South Gloucestershire?

Response

6. We do not consider that the Core Strategy is in general conformity with the National Planning Policy Framework for the following reasons.

7. The main thrust of the NPPF is a presumption in favour of sustainable development. Paragraph 14 provides the definition of sustainable development and the definition in relation to plan making is provided below.

“ For plan-making this means that:

- *local planning authorities should positively seek opportunities to meet the development needs of their area;*
- *local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or*
 - *specific policies in this Framework indicate development should be restricted⁹.*

9: For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest, land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority), designated heritage assets and locations at risk of flooding or coastal erosion.”

8. The council has not provided a robust evidence base in order to define the needs of the district, in particular it has not provided sufficient evidence to justify its proposed housing numbers, which are considerably lower than the Communities and Local Government (CLG) housing projections for the district. Thus the Core Strategy fails to positively seek opportunities to meet the development needs of South Gloucestershire, this is particularly the case with the proposed housing numbers and allocations (see housing section below).

9. The second bullet of the NPPF para 14 requires local plans to meet objectively assessed needs, unless there are any adverse impacts from doing so or where specific policies in the NPPF indicate development should be restricted. Welbeck considers the Core Strategy fails to comply with this requirement specifically in relation to the council's preferred option of Park Farm as its housing opportunity area. This is discussed in more detail below in the section dealing with Park Farm.

10. Local Plans should be based on a proportionate and up-to-date evidence base (paragraph 158). For housing allocations this should include a Strategic Housing

Market Assessment and Strategic Housing Land Availability Assessment. The council contributed to the South West Strategic Housing Market Assessment but has not taken account of the housing need identified in this document.

11. Paragraph 165 of the NPPF requires local plans to be based on up-to-date information about the natural environment. The preparation of any assessment will contribute to the plan’s evidence base and “should be started early in the plan-making process” (paragraph 167). The council has only recently published its Strategic Flood Risk Assessment 2 which identifies areas at risk from flooding around Thornbury. This evidence should have been prepared before the Thornbury option sites were assessed and is another example of a lack of a credible and robust evidence base (see Park Farm below).

Housing

12. NPPF section 6, paragraphs 47-55 provide policy relating to housing. Of particular relevance are:
 - Use evidence base to ensure the full objectively assessed needs for housing are met in the local plan (para 47).
 - Identifying housing supply of deliverable sites sufficient for 5-years and where there has been a record of persistent under delivery of housing include and additional buffer of 20% (para 47).
 - Housing policy should not be considered up-to-date if a 5-year supply cannot be demonstrated (para 49).
 - Deliver a wide choice of high quality homes (para 50).
13. The Local Plan housing requirement is 17,760 for the plan period 1996-2011. A total of 14,750 dwellings were completed for the period 1996-2011 resulting in a shortfall of 3,006 dwellings.
14. The table below presents the annual housing requirement, the number of completions and the total over/under supply.

Financial Year	Annual Target	Large Sites	Small Sites	Total	Under/over supply
1996/97	1184	1,089	98	1,187	3
1997/98	1184	1,415	95	1,510	326
1998/99	1184	1,503	84	1,587	403
1999/00	1184	1,318	138	1,456	272
2000/01	1184	1,168	84	1,252	68
2001/02	1184	715	111	826	-358
2002/03	1184	796	146	942	-242
2003/04	1184	551	197	748	-436
2004/05	1184	380	166	546	-638
2005/06	1184	424	212	636	-548
2006/07	1184	471	218	689	-495
2007/08	1184	657	346	1,003	-181
2008/09	1184	584	332	916	-268
2009/10	1184	475	267	742	-442
2010/11	1184	517	197	714	-470
Total	17760	12,063	2691	14,754	-3006

Table 1 South Gloucestershire Housing Completions (based on information from South Gloucestershire Annual Monitoring Reports)

15. The table indicates that for the overall Local Plan period 1996-2011 there was a shortfall of 3,006 units. For each year over the last ten years the council failed to meet its annual target of 1,184 units based on the adopted Local Plan requirements. This shortfall will need to be carried through to the plan period as represented by the draft Core Strategy. The shortfall has not been included in the Core Strategy housing target. Over the last five years (2006-2011) the council has only achieved an average of 813 completions/annum.
16. The council has persistently under-delivered on its annual housing target and therefore, in line with NPPF paragraph 47, an additional buffer of 20% housing will need to be identified for the first five years of the plan period.
17. The council's Strategic Housing Land Availability Assessment does not identify sufficient sites to meet the housing needs of the district.

Park Farm

18. Section 12, paragraphs 126-141 of the NPPF provide policy relating to the historic environment and this is supported by paragraph 169 (plan making). Of particular relevance is paragraph 129 which requires planning authorities to identify and assess the significance of any heritage asset affected by a proposal – including development affecting the setting of a heritage asset. The available evidence and expertise should be taken into account when considering the impact of a proposal on a heritage asset. The council has disregarded evidence from its own officers in allocating Park Farm (see Examination Document ref SG13 and our representations reference at paragraph 3 above). It has also disregarded the opinion of English Heritage officers in this matter.
19. Paragraph 141 requires local planning authorities to make information about the significance of the historic environment gathered as part of plan-making publicly available. This has not been the case with information gathered in relation to Park Farm. The heritage assessment produced by officers in January 2010 was only released to the public as a result of a Freedom of Information request by Welbeck and only subsequently published as part of the Evidence Base at the request of Welbeck in February 2012, more than two years after it was produced. Furthermore, English Heritage in its consultation response to the March 2010 Core Strategy specifically requested that such an assessment was carried out. English Heritage only received the report in February 2012 when Welbeck forwarded the report to their officer, Caroline Power.
20. Paragraph 170 of the NPPF also requires local authorities, where appropriate, to prepare landscape character assessments to be integrated with an assessment of historic landscape character. National guidance (LI/IEMA, 2002) requires an approach to landscape and visual assessment. The council has prepared landscape character assessments for the district, but its heritage assessment of Thornbury and Park Farm only goes a short way to assessing the character of the sites. Neither this nor the draft landscape and visual assessment of Park Farm conforms to guidance. In any event the council disregarded that assessment when preparing its Sustainability Appraisal. Accordingly, the decision to allocate Park Farm as the Housing Opportunity Site for Thornbury was not only flawed, but was not based on credible evidence base.
21. Section 11, paragraphs 109-125 of the NPPF provide policy relating to the natural environment. Paragraph 110 requires plans to “*allocate land with the least environmental or amenity value*”. The council's decision to allocate Park Farm disregards the importance of the landscape value of this area which provides a special landscape setting to the town. In addition, Park Farm is located on some of the highest

quality agricultural land around Thornbury. The loss of this land does not appear to have been assessed as required by paragraph 112, which requires the use of “*poorer quality land in preference to that of a higher quality*”.

22. As noted above, the SFRA2 indicates that Park Farm is within an area identified as being at risk from flooding. Other sites such as Morton Way South are not identified as at risk from flooding and would provide a more suitable alternative site.

Conclusions

23. Welbeck considers that the Core Strategy has not been prepared in compliance with the NPPF nor the now superseded PPS12.
24. In summary, Welbeck does not consider that the Core Strategy meets the tests for soundness as detailed in paragraph 182 of the NPPF. It does not meet objectively assessed development and infrastructure requirements, thus it is not **Positively Prepared**. The Core Strategy has not been prepared on a proportionate evidence base and therefore the strategy is not **Justified**. It is unclear if the Core Strategy will be delivered over the plan period, Welbeck has serious doubts that the council can deliver on its housing targets due to the lack of NPPF-compliant identified five year housing supply and if the plan is **Effective**. Welbeck considers the Core Strategy is not **Consistent with national policy** as it fails to provide sufficient housing for the plan period and its preferred option of Park Farm as its Housing Opportunity Site fails to meet the objectives of sustainable development.
25. In order to make the Core Strategy to conform with the NPPF it would be necessary to significantly increase the overall housing proposed for the district. This should be increased to 33,600 as a minimum to reflect local need (see Welbeck’s representation February 2012, Appendix W1). In addition, as the council has persistently under delivered on its housing targets the additional 20% five year housing supply should be identified, increasing the total five year provision to 9,600 units. In addition there is the need to add the shortfall over the last five-year period of 1,856 units underprovided. Thus the total 5-year supply required is 11,456 units versus the 6,285 units currently in the draft Core Strategy.
26. Additional housing sites that are available, suitable and deliverable in the first five years of the plan period need to be identified. Morton Way South is such a site and would be able to provide around 500 dwellings, contributing to the identified need in the district and more locally within Thornbury.
27. The council has disregarded important and significant evidence in its proposed allocation of Park Farm. This specifically relates to the impact on identified heritage assets, landscape character, flood risk and loss of high grade agricultural land at Park Farm. This same evidence indicates that Morton Way South is a more preferable site for housing than Park Farm. In order to conform with the NPPF Welbeck recommends that Morton Way South replaces Park Farm as the Housing Opportunity Site for Thornbury.

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