

## Matter 27 – Thornbury: Friday 13<sup>th</sup> July 2012

Policies CS32 & CS33

Respondent ID: 3784801

### Save Thornbury's Green Heritage (STGH)

#### Question 1:

**Concerns have been raised regarding both the consultation process and the sustainability appraisal. What evidence is there to show the Council has failed to comply with either the legislative or regulatory requirements in connection with these processes?**

1. The Council<sup>1</sup> accepts Thornbury was excluded from the Issues and Options (Draft) Regulation 25 stage. Legislation<sup>2</sup> demands *“the public shall be given an early and effective opportunity . . . to express their opinion on the draft plan”*.
2. The Council has failed to identify specific consultation with the required authorities for this stage of the plan for Thornbury, as required by legislation.<sup>3</sup>
3. There has been no clear and consistent summary of reasons that support the Council's decision, e.g. March 2010<sup>4</sup> version claims community support for the decision, subsequently deleted. This is not compliant with legislation<sup>5</sup>.
4. What is a Draft or Submission? The Council consider the Pre-Submission Draft was intended to be the Submission document<sup>6</sup>. If that is the case then STGH was misled by officers into believing that this was subject to change; officers referred to *“the draft document,”* confirming in writing<sup>7</sup> *“no final decisions regarding the identification of the housing opportunity area had been made.”* Therefore, we were led to believe that this was not the final version of the document. The Council claimed<sup>8</sup> the matters raised were minor and represented a technical breach and did not result in anyone being prejudiced. However, we consider that

---

<sup>1</sup> CS SA Report December 2011, para 3.14

<sup>2</sup> Directive 2001/42/EC 27/06/01 Article 6, 2.

<sup>3</sup> Directive 2001/42/EC 27/06/01 Article 6.2

<sup>4</sup> SA Report paragraph 4.42

<sup>5</sup> Article 5 of the SEA Directive

<sup>6</sup> Response to Inspector's Questions Exploratory Meeting 28/06/11: 2.5

<sup>7</sup> Notes of Meeting between SGC and STGH 24/06/10 (already supplied to Inspector by Christine Rickard June 2010)

<sup>8</sup> Inspector's Notes Exploratory Meeting 29/06/11, Agenda Item 3

- Thornbury residents were disadvantaged by a deliberate and calculated pattern of disseminating information that was designed to mislead, misrepresent, or conceal the true extent of the development planned for Thornbury and the process by which it had been chosen. This is at odds with the stated aim<sup>9</sup> for an open and transparent system which involves and empowers people.
5. Submission documents must include a Proposals Map. SGC claims this omission was corrected in December 2010<sup>10</sup>. Thornbury Area of Housing Opportunity does not appear on any proposals map; the only reference to Thornbury is with regard to the safeguarded areas for economic development.
  6. The area proposed for development has never been clearly defined; the response by the Council<sup>11</sup> which claims “*no doubt as to the location and extent of the strategic sites*” omits referencing any policies or figures that relate to Thornbury. Policy CS33 requires further evidence to confirm the capacity and scale of development demonstrating that the extent of this area is still unclear.
  7. Figure 13<sup>12</sup>, a key diagram, failed to identify the entire area of “search”, showing approximately half the area under consideration. Few landmarks were used to identify the area; e.g. the stream, (the most identifiable landmark) was omitted. No proposed access roads were shown. Subsequently<sup>13</sup> the area has been enlarged, but still fails to show site boundaries. Officers were deliberately vague at the time, with conflicting information from the department and various officers.<sup>14</sup>
  8. The Council claims<sup>15</sup> changes made to later versions of the CS were not substantive and did “*not go to the heart of the plan*”; purely an exercise in clarification without altering the substance. Clearly the change from “*Development will provide . . . a new Castle School sixth form centre*”<sup>16</sup> to “*contributions to education . . . Appropriate provision in scale and kind will be sought*”<sup>17</sup> is a huge change and materially alters the criteria which were used to promote Park Farm.
  9. The large amount of new text and the SA increasing by over 66% in subsequent<sup>18</sup> versions of the CS are changes claimed by SGC to be in response to

---

<sup>9</sup> SGC Statement of Community Involvement para 1.3

<sup>10</sup> SGC CS Exploratory Meeting SGC’s Response to Inspector’s Questions 2.28

<sup>11</sup> SGC CS Exploratory Meeting Response to Inspector’s Questions 2.27 bullet point 2

<sup>12</sup> CS March 2010 Pre-Submission Publication Draft

<sup>13</sup> CS Submission December 2010/Post-Submission December 2011

<sup>14</sup> Minutes of Meeting SGC/STGH 24/06/10

<sup>15</sup> SGC CS Exploratory Meeting Response to Inspector’s Questions paragraph 2.24

<sup>16</sup> March 2010 CS33

<sup>17</sup> December 2010/2011 CS33

<sup>18</sup> December 2010/December 2011 versions

representations/factual corrections.<sup>19</sup> We consider that the necessity for these additions demonstrates the Council failed to present the public:

- with a draft plan and environmental report that operated together;
- with an accurate picture of what reasonable alternatives there were to proposed policies;
- with reasons why they were not considered the best option.<sup>20</sup>

10. How and when was Park Farm chosen? A number of FOI requests have not provided all the answers, just more questions, showing that SGC failed to follow a consistent and clear process as is required.<sup>21</sup>
11. The SA Appendices 10 and 11 were prepared and published concurrently; therefore the claim by SGC<sup>22</sup> that one was used to “inform” the other is not correct.
12. Neither was complete at the time the decision to adopt Park Farm for housing was taken<sup>23</sup>. The requirement for the SA to “*provide a sound evidence base and form an integrated part of the plan preparation process*”<sup>24</sup> cannot have been the case if the documentation was incomplete.
13. The SA for Thornbury was incomplete when first published, therefore was unsound and non-compliant.<sup>25</sup>
14. The evidence used in the SA was inconsistent, inaccurate and unjustified.
15. Changes to the SA were carried out in a piecemeal and arbitrary fashion.
16. The SA did not consider all available evidence.
17. The requirements of the NPPF<sup>26</sup> demonstrate that Sustainability Appraisals must fulfil statutory obligations. Evidence presented in our representations<sup>27</sup> show the SA for Thornbury fails this prerequisite.

---

<sup>19</sup> CS SA Report December 2010/2011 Guidance Note, first paragraph (before contents page)

<sup>20</sup> Save Historic Newmarket v Forest Heath 2011

<sup>21</sup> Directive 2001/42/EC Article 5(1) Annex 1

<sup>22</sup> SA Report December 2011 paragraph 4.41

<sup>23</sup> PAG Notes 30/11/09 released under FOI to STGH (supplied to Inspector September 2011)

<sup>24</sup> Practical Guide to the SEA Directive Plan Making Manual Para 4.43

<sup>25</sup> A Practical Guide to the European Directive on SEA paragraph 4.43

<sup>26</sup> NPPF para 165

<sup>27</sup> STGH (3784801), August 2010, February 2011, February 2012

## Question 2:

**A number of respondents say the Council's aim to retain and improve services, facilities and employment in Thornbury is not supported by the evidence. What information has the Council relied upon in reaching its conclusions on the need for and the scale of development appropriate for the town?**

1. The Core Strategy Sustainability Appraisal (para. 4.32w) suggests, *"A rise in population from an appropriately located development is very likely to provide a boost to local shops, services and facilities,"* but the Council has never offered evidence to show why this might be the outcome or how the scale of development was appropriate. The aspiration appears to be as in Kevin Costner's *Field of Dreams*; 'build it and they will come.'

2. The Council has maintained that the population of Thornbury was ageing, school rolls were falling and that development would attract young people to Thornbury and revitalise the town centre. However, in January 2011, SGC held a public exhibition, using 2001 data, thus demonstrating they were not relying upon more recent information.

3. Thornbury actually has more children and fewer pensioners than elsewhere.

Thornbury people under 16 = 20.9%.                      National figure = 19% (2009)

Thornbury people over 65 = 14.4%.                      National figure = 16% (2009)

**(Source: website of Office of National Statistics)**

4. SGC's **School Organisation Plan 2007 - 2012** says of the secondary schools serving Thornbury, *"Both schools in this area have been consistently oversubscribed in recent years."* No evidence of a change in this situation is indicated by SGC or by any other source.

5. The **School Organisation Plan** shows that part of the fall in rolls for Manorbrook, St Mary's and Gillingstool, is attributed to the implementation of significant intake

reductions to reduce class sizes. In May 2012, direct contact with Christ the King primary school revealed it expects its roll could remain the same for 2012/2013 whilst Crossways expects a fall of just two places in September 2012.

6. In March 2010 the Department for Children Schools and Families reported a surge in birth rates, and predicted that many more school places will be needed in the next eight years. **(Source: Department for Education).**

7. The population of South Gloucestershire is some 264,800 with 94 primary schools **(Source: SGC's own statistics)**. This is 1 school for approximately every 2800 people, though Thornbury has one for every 2500 people and so has greater existing provision than other areas. However, the **Audit Commission's** 2010 projections are that the surplus places will drop from 14% in 2009 to 8% in 2012/2013. This is below the 10% figure the Audit Commission suggests is *"the level that provides for good use of resources and an opportunity for parents to express a preference."*

8. So the available data does not point to a problem, but, even if it did, school provision should be designed to meet existing and predicted needs rather than development taking place to meet the needs of schools.

9. The Council has never presented any information to show that the number of empty shop premises would reduce or that trade would increase as a result of housing development, despite many requests to cite any information on which it relies.

Thornbury's shop vacancy rate = 9.52%

National average = 13%

**(Source: Websites of Office of National Statistics)**

10. The 2010 Inside Out West Survey found that it was changes in retail mix that increased footfall and trade and not a rise in population. **(Source: The Local Data Company website)** That view is echoed in Thornbury's Town Centre Development Plan but ignored in the Core Strategy.

11. No information has ever been offered to show that development would lead to employment opportunities. It is notable that SGC has recently decided to redeploy almost two thirds of its staff away from the town, thus reducing employment opportunities.

12. STGH contends that SGC has consistently failed to use post 2001 information or provide evidence to show the benefits it claims for the development it seeks.

### **Question 3:**

**In relation to proposals for development at Park Farm a number of potential constraints have been identified. These include heritage and archaeological assets, wildlife and agricultural land quality as well as concerns with flooding, the loss of open space and access issues. How far have these factors been taken into account in identifying this location as the Council's preferred choice.**

1. The Council was unable to take all these constraints into account because the relevant information was unavailable at the time the decision to choose Park Farm was made<sup>28</sup>; e.g. an Assessment of Thornbury<sup>29</sup>, (claimed<sup>30</sup> to have been considered in October 2009) being clearly marked with the date 28<sup>th</sup> January 2010.
2. The SA<sup>31</sup> stated "*There are no records of notable or protected species of flora or fauna*". This claim was later<sup>32</sup> removed as records were supplied.
3. The SA<sup>33</sup> did not consider all the heritage/landscape assets of the area, failing to identify the Medieval Fishponds, and the Deer Park, their association with Thornbury Castle and other Designated/Non-Designated assets and the contribution they make to the environment and "sense of place," as is required<sup>34</sup>.
4. The SA did not "*inform the evaluation of alternatives*"<sup>35</sup> as it<sup>36</sup> assesses the Park Farm site with the same rating as areas which are defined as "*not of historical/cultural significance.*"

---

<sup>28</sup> Policy Advisory Group Notes 30/11/09, see STGH FOI supplied to Inspector September 2011

<sup>29</sup> FOI release SGC/Dominic Lawson Assessment of the Cultural Heritage issues relating to potential growth areas around Thornbury, included in representation 4038145

<sup>30</sup> Supporting Letter FOI SGC/Dominic Lawson included in representation 4038145

<sup>31</sup> March 2010 CS SA Report/Appendix 10 Area F 5.1/Appendix 11 Option 6 5.1

<sup>32</sup> December 2010 & December 2011 versions

<sup>33</sup> March 2010 CS SA Report/Appendix 10 Area F: 2.5, 5.1, 5.2, 5.3, 5.4/Appendix 11 Option 6: 2.5, 5.1, 5.2, 5.3, 5.4

<sup>34</sup> PPS5 HE3.1 (i)/NPPF, 169

<sup>35</sup> A Practical Guide to SEA Directive and the Plan Making Manual para 4.43

5. No flood risk assessment was available at the time; Level 1 SFRA<sup>37</sup> stating that no evidence was provided for Thornbury, therefore no sequential site selection process could have been carried out as is required.<sup>38</sup>
6. FOI requests<sup>39</sup> have supplied e-mails which show officers were unaware of many issues that apply to the site and the correct procedure to follow when assessing spatial plans.
7. The PAG<sup>40</sup> was supplied with incorrect information about sites contained within the Green Belt.
8. The decision to adopt Park Farm as the preferred choice was taken<sup>41</sup> before the SA was complete.
9. Failure by SGC to publish a clear audit trail showing that all the issues had been considered and accurately assessed at the **start** of the process has resulted in every version of the CS requiring many amendments. This has led to a confused and imprecise document where there is no consistent pattern showing a summary of reasons for the site selection or why the alternatives were ruled out.<sup>42</sup> This supports the charge that the above factors were inadequately considered.
10. Officers have failed to follow guidance,<sup>43</sup> and have failed to protect assets.<sup>44</sup> The failure to disclose comments and assessments from specialist officers is worthy of a maladministration charge.<sup>45</sup>
11. The policy SGC has adopted of relying on a developer to provide **all** the technical and supporting information **after** site selection in order to “progress the site through the CS process” has resulted in information that is not independent and appears to have skewed the process of site selection.
12. The arguments we have presented in our representations show that where the Council has identified constraints they have down-played or undervalued their importance.

---

<sup>36</sup> March 2010 CS SA Report/Appendix 10 Area A 5.5, B 5.5, C 5.5, D5.5, E5.5, F5.5/Appendix 11 Option 1 5.5, 2 5.5, 3 5.5, 4 5.5, 6 5.5.

<sup>37</sup> SFRA Level 1: 6.51, 6.57, 10.3

<sup>38</sup> PPS25/NPPF 100

<sup>39</sup> FOI supplied to Inspector by STGH September 2011

<sup>40</sup> Policy Advisory Group Action Notes 30/11/09 (supplied as above)

<sup>41</sup> Policy Advisory Group Action Notes 30/11/09

<sup>42</sup> Save Historic Newmarket Ltd v. Forest Heath (2011) EWHC 606 (Admin) 3.

<sup>43</sup> English Heritage Planning for the Historic Environment (Gov't endorsed post NPPF); paragraphs 8,10.

<sup>44</sup> PPS1 (17)(19)/NPPF 129/132/133

<sup>45</sup> Report from Ombudsman complaint nos 07C14968 & 07C17131 against Kirklees Metropolitan Council 09/02/2010

13. The latest evidence<sup>46</sup> the council requires the developer to provide is further proof the Council has failed to consider all factors. It highlights a reckless disregard of its own duty of care to these assets.
14. As a further example of disingenuous information disseminated by SGC (see Q1, 4 above), the latest transport evidence (used to support the Council's argument for Matter 14, 4.2) includes 6 references to a new link<sup>47</sup> from the intended development site for pedestrians, cyclists and buses via Park Road. This link is a requirement of the CS, policy 33 and SA paragraph 4.44, in order to make the site sustainable. However, it is clear from the latest master-planning and supporting documentation from the developer<sup>48</sup> that this bus/cycle link is no longer considered an option. This begs the question as to why SGC is still relying upon the link road and its sustainability credentials whilst the developer has no intention of including it as part of a development plan.
15. We are now advised<sup>49</sup> that Supplementary Planning Documentation will not be progressed for Thornbury as the masterplan will be delivered through the current submitted planning application. It appears that the developer is looking for this application to be determined through, or in parallel with<sup>50</sup>, the EiP process. We are not in a position to judge whether this is part of the normal planning application process. However, the Inspector will not be surprised to learn that we are suspicious that this is a cynical ploy to hide important evidence in the avalanche of new documentation that is being added continuously to the various websites supporting the CS and EiP. Is this another attempt to keep the Park Farm site "under the radar" and limit an open, transparent and robust planning process?

---

<sup>46</sup> SA Report Dec 2011, 4.44d

<sup>47</sup> Review of Strategic Transport Case (RD41) 4.14 bullet point 2/Thornbury Transport Review (RD42) 3.3, bullet points 1, 3.4, 3.5, 3.15, 3.17

<sup>48</sup> Planning Application PT11/1442/O, Barton Willmore Landscape & Visual Appraisal, April 2012, para 1.6

<sup>49</sup> Update to Local Development Scheme (Jan '12-Dec '14) Update April 2012 (EB1/1, introduction; bullet point 10, Thornbury Housing Opportunity Masterplan SPD)/Planning Application PT11/1442/O

<sup>50</sup> EB5/2 Annual Monitoring Report Appendix B, April 2012 Update, RLS ref:0132

**Question 4:**

**Do alternative sites in the Thornbury area particularly to the east and south have advantages over the Park Farm location and, if so, what are these?**

1. The Sustainability Appraisal did not sufficiently test the site options/alternatives around Thornbury, nor provide accurate evidence on which to make judgements regarding the preferred site selection.
2. SGC's decision to select Park Farm as its preferred site is based on the presentation of some very inaccurate and inconsistent scoring used to assess the Thornbury site options in the SA. Had the process been carried out impartially, accurately and ensuring proper evidence was obtained and used, the conclusion would certainly have deemed a development at Park Farm as less sustainable than other options. What the alternative preferred site option **would have been**, had a sound SA been prepared and a proper process followed, is not possible to deduce, as we are of the opinion that the alternative site options will need proper assessment before this conclusion is made.
3. We have significant questions regarding justification of the need for this quantity of houses in Thornbury, but if this level of need was established, it is clear that there are alternative sites (including to the East and South) that have obvious advantages over the Park Farm option. There are sites that:
  - a. do not have such sensitive heritage, historic, landscape and conservation value/assets and do not affect the historic town centre, the setting of Thornbury Castle, the medieval fishponds or the deer park.
  - b. do not have the same level of flood risk
  - c. have less environmental, ecological and habitat value
  - d. have shorter walking distances and driving distances to the town centre
  - e. do not require major transport infrastructure
  - f. are closer to the main employment areas of the town
  - g. would not significantly affect public rights of way
  - h. are on established bus routes
  - i. are close to traffic free links to the town centre
  - j. have land of lower agricultural quality

4. We are not an authority on which other site in Thornbury should be the 'preferred' option, but can only refer to, and respect, the conclusions made by the previous independent inspector in considering the Morton Way South site "possibly the most suitable for development were the need established".

**Question 5:**

**Is Morton Way South a more sustainable location for housing purposes and/or are the constraints at this location a significant factor against the development?**

1. STGH has argued that Park Farm is the least sustainable of the six potential sites identified around Thornbury. However, the process used by SGC to consider all sites around Thornbury was flawed and lacking in evidenced comparisons, so it is difficult to use the Sustainability Appraisal to assess the relative suitability of any of the sites.

2. It is known that the Planning Inspector in 2004 considered Park Farm "not the most appropriate or suitable by some considerable distance," and "much less suitable than the Morton Way site". Aside from the question; "does Thornbury now require new housing"? very little has changed since the Inspector made those comments, other than the Park Farm site is now the setting for a Scheduled Ancient Monument. Certainly there has been nothing to support the transformation of the site from "least suitable" to "most suitable".

3. STGH has always maintained that the case has not been made to justify building 500 houses in Thornbury. Building has taken place on brownfield and in-fill sites over recent years, and should continue to do so. There are still many opportunities. These are more in keeping with the town and its heritage and is a strategy promoted by the NPPF in its core planning principles (para 17).

**Question 6:**

**Some respondents are concerned that no account has been taken of the impact of a new nuclear power station at Oldbury. How significant is this to the proposals for Thornbury?**

At the time of writing it is unclear whether the nuclear new build at Oldbury is still a live issue. As the responsible authority, we assume SGC has taken all aspects of the potential

impact of a possible new power station into account in the preparation of the Core Strategy. However, we are alarmed by the fact that it did fail to advise the Office for Nuclear Regulation about Barratt's planning application at Park Farm, which it was required to do<sup>51</sup>. SGC has outlined in Chapter 18 how it would respond in planning terms to any planning proposals connected with a possible new power station.

(Word Count: 2,869)

---

<sup>51</sup> 20/03/12 Office for Nuclear Regulation advised of Planning Application PT11/1442/O. Planning App. Received by SGC 06/05/11