

**SOUTH GLOUCESTERSHIRE CORE STRATEGY – ADDITIONAL HEARING**

**ADDITIONAL HOUSING SITES**

This statement is a combined submission which has been prepared by Barton Willmore, with input from Turley Associates; WYG Environment Planning Transport Limited; and Dominic Lawson Bespoke Planning; and is submitted on behalf of and supported by:

- Barratt Homes
- Persimmon Homes
- Ashfield Land
- Bloor Homes
- Welbeck Strategic Land
- David Wilson Homes
- Maximus Developments
- Sydney Freed (Holdings)
- Taylor Wimpey and
- The Atherton Family Trust

**1.0 Overall Housing Requirement**

- 1.1 The primary aim of the additional Session should be to establish the correct overall housing target that the Core Strategy should plan for; and only then should the suitability of the additional sites be assessed to respond to this requirement.
- 1.2 The current housing target has not been objectively assessed (as required by paragraph 182 of the NPPF) and has been retrospectively justified; this has resulted in the shortfall identified by the Inspector being inaccurate and insufficient to meet housing needs as is shown below.
- 1.3 The Inspector has acknowledged that he is not certain that the current level of housing provision will be adequate to meet the full housing needs (Inspector's Preliminary Findings, paragraph 7). The soundness of the plan would be questionable and challengeable if there is no evidence that the full objectively assessed housing needs will be met. This view has been ratified by a legal opinion received from Richard Phillips QC (attached), which confirms that if the Core Strategy is to be

adopted in the absence of a robust objective assessment of housing needs, it will not comply with the requirements of Paragraph 47 of the NPPF, it will not satisfy the Tests of Soundness, and it is likely to be subject to Judicial Review.

- 1.4 The only parties to have undertaken a full objective assessment of housing needs in South Gloucestershire and its Housing Market Area (in accordance with NPPF paragraphs 47, 158 and 159) are Barton Willmore on behalf of several national developers (Barton Willmore Paper submitted on Matter 8, respondent number: 3557665), and Roger Tym & Partners on behalf of Welbeck Strategic Land (RE36). Both assessments demonstrate that a minimum of 33,000 dwellings are required to meet housing needs in South Gloucestershire over the plan period (2006-2027).
- 1.5 The Core Strategy (Draft Main Modifications) currently plans for 28,355 dwellings over the period 2006-2027. Therefore, in order for the Core Strategy to meet the housing requirement derived from the Objective Assessment of housing need, locations and land sufficient for a minimum of an additional 4,645 dwellings must be identified in order to meet the overall housing needs of South Gloucestershire over the plan period (2006-2027).
- 1.6 The implications of this on the five year land supply are that applying the Objectively Assessed housing requirement of 33,000 dwellings; and dealing with the historic shortfall in housing provision of 4,436 in the first 6 years of the plan period (2006-2012) using the Sedgefield (compressed) approach, the Core Strategy should make provision for 13,862 dwellings over 2012/13 – 2016/17 (1<sup>st</sup> April 2012 – 31<sup>st</sup> March 2017). Even adopting the Liverpool approach and spreading the historic shortfall over the remainder of the plan period, which we do not advocate as it conflicts with the objectives of the NPPF, the Core Strategy should make provision for 11,204 dwellings over 2012-2017.
- 1.7 Compared with the housing provision indicated within Policy CS15 in the Inspectors Draft Main Modifications (which suggests provision of 8,493 dwellings to be completed in 2012/13-2016/17), this leaves a shortfall of 5,369 dwellings compared with the Sedgefield approach (or 2,711 dwellings compared with the Liverpool approach), to be provided during 2012 – 2017. The shortfall in 5 year supply can be addressed either through the identification of new sites or through bringing sites forward that have already been identified earlier in the plan period.

- 1.8 In order to address the overall shortfall in housing provision in the plan period the Inspector should confirm that the objectively assessed housing requirement in the period 2006-2027 is at least 33,000.
- 1.9 The Inspector can specify either the Sedgefield approach or the Liverpool approach to meeting the historic shortfall (i.e. by providing for this in the first 5 years of the plan or by meeting the shortfall throughout the remaining plan period 2012-2027).
- 1.10 There are 3 options to address housing needs. The Inspector can:
- a) Request the LPA to identify sufficient land to meet the 5 year requirement using the Sedgefield approach;
  - b) Request the LPA to identify sufficient land to meet the 5 year requirement using the Liverpool approach; or
  - c) Specify a reduced requirement for the next 5 years (2012-2017) with a review of the CS housing provisions in 2016/17 in order to identify additional land to meet higher requirements in the latter part of the plan period. In order to achieve 33,000 dwellings between 2006-2027 this review will inevitably involve a review of the green belt.
- 1.11 Increasing housing requirements in the latter part of the plan period must be realistic and deliverable.
- 1.12 As it stands the Draft Main Modifications which require 28,355 dwellings in the plan period is insufficient and has no objective basis.

- 2.0 Whether the additional dwellings the Council has identified (594) are valid sites which are potentially deliverable in the first five years of the plan period and do not result in double counting of other sources e.g. windfall allowances.**
- 2.1 We do not accept that the shortfall in the 5 year supply should be calculated on the basis of the overall requirement for the Plan Period being 28,355 dwellings, as concluded by the Inspector for the reasons set out above. This should be based on a requirement of at least 33,000 dwellings, with a 5 year requirement of 13,862 dwellings using the Sedgfield approach; or 11,204 dwellings using the Liverpool approach.
- 2.2 We acknowledge that the Inspector has concerns regarding the economic conditions and the feasibility of achieving build rates that are notably higher than those achieved in recent years in South Gloucestershire. However, the Examination has not been presented with any evidence regarding the poor economic conditions or the capacity of the housebuilding industry; and the government and housebuilding industry does not share these concerns provided sufficient sites are granted planning permission and there are sufficient outlets. If the Inspector does have any doubts about the capacity of the housebuilders to deliver the necessary numbers then it follows that he should do everything to assist them, and plan to increase delivery rates by increasing the number of sites, increasing the number of outlets and identifying suitable sites in locations where people want to live. All this accords with the Growth Agenda of the Government and will be necessary to rectify the housing shortage identified by the Minister for Planning.
- 2.3 Putting all this to one side, we do not accept that the shortfall to be met in the first five years is only 853 dwellings, as suggested by the Inspector within his Preliminary Findings, as this includes double counting of windfalls, as discussed below.
- 2.4 The Inspector has asked whether the additional sources of supply that have been identified by South Gloucestershire Council within their response to the Inspectors draft Main Modifications result in double counting of Windfalls.
- 2.5 We accept that the additional sites do not cause double counting as they have a capacity in excess of 10 units, however there is double counting of small sites of less than 10 units in size in the Council's figures, which has not been acknowledged.

- 2.6 The current phasing in the draft Main Modifications expects 750 dwellings to be completed on windfall sites by 2017 (Appendix D, p. D1); however, the housing trajectory already relies on the completion of 662 units on sites of less than 10 units with planning permission to 2017, which would normally be counted as windfall sites (AMR April 2012 update). These are acknowledged as windfall sites in the Council's Position Statement for Matter 8 (EiP Document PSM8), response to Q5 and therefore represent the existing double counting of windfalls. Excluding or discounting windfalls in the first five years of the Plan has been required by Inspectors elsewhere, for example, Roy Foster in the recent South Oxfordshire Core Strategy, where the windfall allowance was excluded for the first three years of the Plan, because this double-counts existing Planning Permissions.
- 2.7 It is therefore inappropriate to suggest that 750 dwellings will be completed on windfall sites in 2012/13-2016/17 (150 dpa) when the Council is already relying on the completion of 662 dwellings in this period (circa 220 dwellings per annum for each of the years 2012/13, 2013/14 and 2014/15).
- 2.8 To rectify this double counting, the windfall allowance in Policy CS15 over the years 2012/13-2016/17 should be reduced by 450 (equivalent to 150 dwellings per annum for the years 2012/13, 2013/14 and 2014/15, which the housing trajectory already assumes completions for). The existing windfall allowance for the period 2012/13-2016/17 should therefore be reduced from 750 dwellings (150dpa) to 300 (150 per annum allowance for the years 2015/16 and 2016/17).
- 2.9 The 450 dwellings that have been double counted should be added to the Inspector's identified shortfall of 853, leaving a residual of 1,303 additional dwellings to be provided during the period 2012/13-2016/17.
- 2.10 Secondly, the additional sources of supply (594) identified by the Council are not all valid:
- 240 of the additional dwellings identified as being deliverable within the period to 2017 are additional completions expected at NYNN. This increases the total assumed number of completions at NYNN to 750 dwellings by 2017. Outline planning permission has been granted for 250 dwellings (Peg Hill), but the wider NYNN does not have outline planning permission; and no sites at NYNN or Peg Hill have detailed planning permission or approval of Reserved Matters.

2.11 We understand that Heron anticipate the following timescales for securing detailed planning permission and starting work on site:

- Outline Planning Application Lodged - June 2012
- Outline Resolution to approve - May 2013
- Section 106 signed and outline planning permission granted - September 2013
- Reserved Matters approved - March 2014
- Start on site - June 2014
- First legal completions - December 2014

2.12 We consider this to be a best case scenario, that does not take into account the fact that Heron are not housebuilders and that it will take time to market each parcel of land, and enter into contracts with several housebuilders all of whom will need to submit their own applications for Reserved Matters, Discharge Conditions, and build show homes etc before any market or affordable homes can be completed. Even if Heron were to put in infrastructure in parallel with the housebuilders submitting applications for the approval of Reserved Matters and discharging pre-commencement conditions, the forecast completion rates are unrealistic.

2.13 In order to achieve the 500 units on the Heron land forecast under the above programme, we understand that Heron and the Council has relied on the following build rates:

- 2014/15 - 75 dwellings
- 2015/16 - 175 dwellings
- 2016/17 - 250 dwellings

2.14 Given that first legal completions are expected in December 2014 it is considered over optimistic to rely on the completion of 75 units by end of March 2015, which would necessitate about 20 completions per month. Equally, it is over optimistic to assume completion of 175 units in the year 2015/16 as to achieve this build rate would require a minimum of 4 outlets each building at full capacity (40 dpa); and to achieve 250 units in 2016/17 would need 6-7 outlets (at 40 dpa), which is again considered over optimistic.

2.15 We therefore question the validity of relying on the completion of 750 dwellings in one location in the next 4 years.

- 2.16 At best, based on the assumed dates for securing planning permission for the Heron land, this could only be expected to deliver 300 units by April 2017, on the following basis:
- December 2014 – March 2015 - 20 dwellings (3 months with 2 outlets; at 40 units per outlet per annum);
  - April 2015 – March 2016 – 120 dwellings (12 months with 3 outlets; at 40 units per outlet per annum);
  - April 2016 – March 2017 – 160 dwellings (12 months with 4 outlets; at 40 units per outlet per annum).
- 2.17 Assuming any more than 4 outlets by 2016-17 at NYNN in addition to the two outlets at the Peg Hill site is over optimistic. At the previous Examination in Public sessions, the Council assumed the completion of 260 dwellings at NYNN and 250 at Peg Hill by 2016/17. To increase this to 500 at NYNN in addition to the 250 at Peg Hill is unrealistic. At most we consider NYNN to be capable of delivering 300 dwellings by 2017 in addition to the 250 at Peg Hill. Therefore the Council can only legitimately assume an additional 40 units to be added to the supply at NYNN, rather than the 240 South Gloucestershire Council suggest.
- 2.18 Taking account of the above, we consider that only 394 dwellings from the Council's additional sources of supply are capable of being delivered in the period 2012-2017 (594 – 200 over optimistic build rates at NYNN).
- 2.19 The residual shortfall in 5 year supply that needs to be met through the identification of additional sites is therefore a minimum of 909 dwellings (1,303 - 394).
- 2.20 This is without querying other sources of supply such as the additional completions assumed at Barnhill Quarry which is a complex site that relies on infill before much of the development can commence; or other optimistic assumptions already within the housing trajectory.

- 3.0 The relative merits of various sites at a number of locations including (in no particular order) Thornbury, Yate/Chipping Sodbury, Severnside and the East and North Fringes. Factors to consider include the degree of coherence with the Plan's vision and spatial strategy, site capacity, deliverability, having regard to constraints including infrastructure provision and transport connections and how effectively the site could be assimilated into the existing settlement pattern.**
- 3.1 The responses to the previous questions highlights that there is a need for several additional sites to be identified in order to meet the shortfall in 5 year supply. Several sites are required because the build rates assumed must be realistic for each outlet. Each outlet will deliver about of about 40 dwellings per annum. Therefore in order to build the additional 909 dwellings in 5 years would require a number of outlets on a number of sites. Sites can only produce units when they have planning permission, reserved matters approval, building regulations approval, discharged conditions and completed the required infrastructure.
- 3.2 The focus of the additional hearing session should therefore be on identifying sufficient sites to meet this requirement. It is reasonable for the Inspector to consider the merits of each site that has been promoted through the process, however the need is such that all of the sustainable sites promoted through the course of the Core Strategy EiP sessions, and as included in the schedule below, are required to meet the 5 year requirement.
- 3.3 In order to make the Plan sound, sufficient additional sites should be identified to meet the shortfall in housing provision, provided that they do not conflict with the overarching vision and spatial strategy of the Core Strategy.
- 3.4 The following sites are considered to comply with the spatial strategy and should be included within the Core Strategy in order to meet this identified shortfall in 5 year supply.

	Site	Promoter/ Developer	Timescales for Delivery					Completion Rates (from First Legal Completions)	Site Capacity (2012/13 – 2016/17) (Up to)	Overall Site Capacity (Up to)
			Outline or Full Planning Application Lodged	Outline Planning Permission	Reserved Matters or Full Planning Permission	Start on Site	First Legal Completions			
<b>Non-Green Belt</b>	Land to the East of Chipping Sodbury	Persimmon Homes/Maximus Developments	June 2013	May 2014	November 2014	December 2014	April 2015	75 dpa (two outlets – Persimmon/Charles Church) for 2 yrs	150 (75 x 2yrs)	500
	Iron Acton Way/North Road, Engine Common	Bloor Homes and Sydney Freed (Holdings)	May 2012 (Full Application)	N/A	April 2013	June 2013	November 2013	40 per annum (one outlet) for 3yrs 5 months	137 (40 x 3yrs 5 months)	210
	Morton Way North, Thornbury	Bloor Homes	July 2012 (Hybrid Application with first phase of 109 units)	June 2013	June 2013 (Phase 1 only)	August 2013	January 2014	40 per annum (one outlet) for 3yrs 3 months	130 (40 x 3yrs 3 months)	300
	Hacket Farm, Morton Way South, Thornbury	Welbeck Strategic Land	May 2013	February 2014	January 2015	February 2015	July 2015	80 per annum (two outlets) for 1 year 9 months	140 (40 x 1yr 9 months)	500
	Woodlands Farm, Frampton Cottrell	Barratt	January 2013	January 2014	May 2014	June 2014	November 2014	80 per annum (two outlets – Barratt/David Wilson) for 2yrs 5 months	190 (40 x 2yrs 5 months)	380
<b>Non-strategic Green Belt</b>	Mangotsfield	Taylor Wimpey	April 2013	N/A	December 2013	January 2014	May 2014	40 per annum (one outlet) for 2yrs 11 months	117 (40 x 2yrs 11 months)	130
	West of B4061 Bristol Road, Thornbury	Atherton Family Trust	November 2013	September 2014	February 2015	April 2015	September 2015	40 per annum (one outlet) for 1yr 7 months	60 (40 x 1yr 7 months)	80
								<b>924</b>	<b>2100</b>	

\* Footnote

- The indicative capacities set out above are based on the assumption that each site is capable of delivering up to 40 dwellings per annum through a single outlet, or up to 80 dwellings per annum with two outlets.
- The above table is based on the assumption that, if supported by the Inspector, planning permission will be granted by the Local Planning Authority, rather than through the appeal process.
- The timescales for delivery are based on the assumption that given the five year supply position the Local Planning Authority will seek to grant planning permission without any undue delays.

- 3.5 The addition of all of these sites would contribute an additional 924 dwellings over the next 5 years (up to 2017). All of these sites are required in order to meet the shortfall in 5 year housing provision, even without amending the overall housing requirement to reflect the objectively assessed housing needs.
- 3.6 All of the sites identified in the above table are at sustainable settlements and reflect the overarching settlement hierarchy as proposed within the Core Strategy; with the main focus for growth remaining the North and East Bristol Fringe; a significant amount of growth at Yate/Chipping Sodbury; and to a lesser extent Thornbury; and the addition of a strategic allocation at Frampton Cotterell/Coalpit Heath, which is a significant and sustainable settlement close to the Bristol urban area.
- 3.7 Each site can also deliver houses within the 5 year period (as indicated within the above table) and is not reliant on the addition of strategic infrastructure that could delay commencement of development.
- 3.8 A detailed summary of how each of the sites perform against these factors, together their ability to deliver improvements to the existing transport infrastructure; and an assessment of the way in which each site assimilates into the existing settlement pattern, is set out below:

	Site	Promoter/ Developer	Coherence with the Core Strategy Vision/Spatial Strategy	Deliverability	Infrastructure Provision	Transport Connections	Assimilation into the Existing Settlement Pattern
<b>Non-Green Belt</b>	Land to the East of Chipping Sodbury	Persimmon Homes/Maximus Developments	<ul style="list-style-type: none"> <li>• Accords with the overarching settlement hierarchy of the Core Strategy.</li> <li>• Chipping Sodbury is identified as a sustainable location capable of accommodating future growth.</li> <li>• Located outside of the green belt and AONB.</li> </ul>	<ul style="list-style-type: none"> <li>• Site is controlled by a Consortium of two parties, including a major national housebuilder.</li> <li>• Outline planning application and ES currently being prepared.</li> <li>• No technical constraints to development.</li> </ul>	<ul style="list-style-type: none"> <li>• No major infrastructure requirements, with potential for several access points.</li> <li>• No known utility constraints.</li> </ul>	<ul style="list-style-type: none"> <li>• Highly sustainable location.</li> <li>• Connection to the existing highway network can be easily made.</li> <li>• Within close proximity to public transport routes.</li> <li>• Within walking distance of the town centre.</li> </ul>	<ul style="list-style-type: none"> <li>• The site adjoins, and can be easily assimilated into, the existing settlement boundary.</li> <li>• Proposed layout will ensure assimilation into the much wider settlement pattern.</li> </ul>
	Iron Acton Way/North Road, Engine Common	Bloor Homes and Sydney Freed (Holdings)	<ul style="list-style-type: none"> <li>• The development is located adjoining the settlement of Yate which is confirmed as sustainable location for development in the Council's Core Strategy.</li> <li>• The development will provide both housing and employment to provide a broader employment base in Yate.</li> <li>• There will be no unacceptable environmental or heritage impacts.</li> </ul>	<ul style="list-style-type: none"> <li>• All land controlled by developer.</li> <li>• Full planning application submitted in May 2012. Public Inquiry due to commence in March 2013.</li> </ul>	<ul style="list-style-type: none"> <li>• New access points from North Road and Iron Acton Way.</li> <li>• Improvements to sewerage system at North Road required.</li> </ul>	<ul style="list-style-type: none"> <li>• Existing bus stops located on Iron Acton Way and North Road.</li> <li>• The Avon Cycle Way runs past the site.</li> <li>• Yate train station is 1.7km from the site.</li> <li>• A recent SoCG has been agreed with SGC on the appeal confirming no transport objections.</li> </ul>	<ul style="list-style-type: none"> <li>• Site located adjacent to the settlement boundaries of Yate (to the south) and Engine Common (to the west).</li> <li>• Yate's main employment area is located immediately to the south.</li> <li>• The character of Engine Common will be protected and a new village green will be provided at the heart of the community.</li> </ul>
	Morton Way North, Thornbury	Bloor Homes	<ul style="list-style-type: none"> <li>• The development will adjoin Thornbury which is confirmed as a sustainable settlement for additional housing growth.</li> <li>• The development will help to strengthen the town centre, local schools and community facilities and activities.</li> <li>• There will be no unacceptable environmental or heritage impacts.</li> </ul>	<ul style="list-style-type: none"> <li>• All land controlled by developer.</li> <li>• Hybrid application submitted in July 2012 with a first phase of 109 units in detail.</li> </ul>	<ul style="list-style-type: none"> <li>• Three new access points from Morton Way for the development as a whole.</li> </ul>	<ul style="list-style-type: none"> <li>• Existing bus routes run past the site on Morton Way and Gloucester Road.</li> </ul>	<ul style="list-style-type: none"> <li>• Located adjacent to the existing settlement boundary. Existing pedestrian links to the site under Morton Way. Links back to town centre via the riverside path.</li> </ul>

	Site	Promoter/ Developer	Coherence with the Core Strategy Vision/Spatial Strategy	Deliverability	Infrastructure Provision	Transport Connections	Assimilation into the Existing Settlement Pattern
	Hacket Farm, Morton Way South, Thornbury	Welbeck Strategic Land	<ul style="list-style-type: none"> <li>The development will adjoin Thornbury which is confirmed as a sustainable settlement for additional housing growth.</li> <li>The development will help to strengthen the town centre, local schools and community facilities and activities.</li> <li>There will be no unacceptable environmental or heritage impacts.</li> </ul>	<ul style="list-style-type: none"> <li>All land controlled by the developer.</li> <li>No constraints to development</li> <li>An EIA Screening Opinion has been issued by the Council confirming no environmental impacts.</li> <li>Considerable public consultation, masterplanning and technical work already undertaken.</li> </ul>	<ul style="list-style-type: none"> <li>Development would utilise existing infrastructure along Morton Way.</li> <li>Direct access onto Morton Way.</li> <li>Transport and infrastructure benefits of developing in tandem with Park Farm and Morton Way North.</li> </ul>	<ul style="list-style-type: none"> <li>Existing bus routes run along Morton Way and Grovesend Road.</li> <li>Existing bus stops adjacent to site.</li> <li>Within walking distance of primary and secondary schools.</li> <li>Within walking and cycling distance of town centre and employment facilities.</li> <li>Connections to existing highway network can be easily made.</li> </ul>	<ul style="list-style-type: none"> <li>Site immediately adjoins the settlement boundary with existing residential development to the west of Morton Way.</li> <li>Hacket Farm complex adjoins western site boundary.</li> <li>Site is visually enclosed.</li> </ul>
	Woodlands Farm, south of Frampton Cottrell, Coalpit Heath	Barratt	<ul style="list-style-type: none"> <li>Located outside of the green belt and AONB.</li> <li>it is appropriate, and in accordance with the spatial strategy, for some of the required growth to be directed to this sustainable settlement.</li> </ul>	<ul style="list-style-type: none"> <li>Site is controlled by a major national housebuilder.</li> <li>There are no known constraints to development.</li> <li>A planning application has been submitted and is currently under consideration by South Gloucestershire Council.</li> </ul>	<ul style="list-style-type: none"> <li>No major infrastructure requirements.</li> <li>No known utility constraints.</li> </ul>	<ul style="list-style-type: none"> <li>Site is in a sustainable location with schools, shops, leisure and community facilities within walking distance.</li> <li>Good access to a wide range of education and employment sites by bike.</li> <li>Adjacent to a major bus corridor.</li> <li>Development would not have significant impact on existing junctions in terms of capacity or safety.</li> </ul>	<ul style="list-style-type: none"> <li>Site immediately adjoins the settlement boundary and is defined on three sides by existing housing.</li> <li>The southern side of the site is enclosed by a railway line set on an embankment.</li> <li>Development would be easily assimilated into the existing settlement.</li> </ul>
<b>Non-strategic Green Belt</b>	Mangotsfield	Taylor Wimpey	<ul style="list-style-type: none"> <li>Continuous with Greater Bristol where green belt land has previously been released.</li> <li>Non-strategic scale that would not necessitate a wholesale green belt review.</li> </ul>	<ul style="list-style-type: none"> <li>The site is in single ownership by a major national housebuilder.</li> </ul>	<ul style="list-style-type: none"> <li>No major infrastructure requirements.</li> <li>No utility constraints.</li> </ul>	<ul style="list-style-type: none"> <li>Site is located in a sustainable location.</li> <li>Within walking distance of a district centre, facilities/ services, sports facilities and open space.</li> <li>Adjacent to a secondary school and major bus route.</li> <li>Connection to the existing highway network can be easily made.</li> </ul>	<ul style="list-style-type: none"> <li>The site is surrounded by built development on three sides and could be easily assimilated (both physically and visually) into the existing settlement pattern.</li> <li>The site is located within the ring road.</li> </ul>

ADDITIONAL HOUSING SITES

	Site	Promoter/ Developer	Coherence with the Core Strategy Vision/Spatial Strategy	Deliverability	Infrastructure Provision	Transport Connections	Assimilation into the Existing Settlement Pattern
	West of B4061 Bristol Road, Thornbury	Atherton Family Trust	<ul style="list-style-type: none"> <li>• Will help strengthen and develop Thornbury town centre</li> <li>• Non-strategic scale that would not necessitate a wholesale green belt review</li> </ul>	<ul style="list-style-type: none"> <li>• The site is in single ownership.</li> </ul>	<ul style="list-style-type: none"> <li>• No major infrastructure requirements.</li> <li>• No known utility constraints.</li> </ul>	<ul style="list-style-type: none"> <li>• Existing highway access.</li> <li>• Within walking distance of town centre, all other day to day facilities, leisure centre, primary and secondary schools and employment.</li> <li>• Adjacent bus route.</li> </ul>	<ul style="list-style-type: none"> <li>• The site has built development on three sides and could be easily assimilated into the existing settlement boundary.</li> </ul>

3.9 Furthermore, all of these locations lie outside of the Greenbelt, with the exception of the proposed sites at Mangotsfield and Thornbury, both of which would be non-strategic sites in the greenbelt and would not necessitate a wholesale greenbelt review. The 7 additional sites identified have a total capacity of 2,100 dwellings and the addition of all of these sites would add a further 2,100 dwellings to the existing housing supply to 2027 (previously indicated to be 28,355 in the draft Main Modifications); thereby increasing the overall supply in the Plan to 30,005 dwellings to 2027 once the double counting of 450 windfalls is removed (see paragraphs 2.6 – 2.8):

28,355 draft Main Modifications requirement  
+ 2,100 new sites  
- 450 double counting of windfalls  
= 30,005 new requirement.

3.10 This would still not be sufficient to meet the objectively assessed housing requirements during the plan period of at least 33,000. Therefore an early review of the Plan would still be required by 2016/17 which would need to incorporate a comprehensive greenbelt review to identify additional sites that could meet the shortfall in supply of 3,000 dwellings as no further non-greenbelt sites are available in appropriate and sustainable locations to achieve 33,000 in total over the plan period.

3.11 We consider the identification of the above additional sites, and the requirement for the Council to undertake a comprehensive review of the Core Strategy by 2016/17 is a reasonable and suitable approach that would allow the plan to be adopted provided the overall requirement was specified at at least 33,000 and there was a binding requirement for a review in 2016/17 with the aim of identifying further land to achieve at least 33,000 by 2027. The phasing of land release would provide a way to satisfy the Government requirement to achieve a 5 year land supply from the point of adoption and a way of meeting the objectively assessed housing needs of South Gloucestershire in the plan period; whilst providing the Inspector with the assurance that the strategy can be delivered.

**Summary**

2006-2027 Housing Requirement	33,000
2006-2012 Completions	4,990
Residual Requirement 2012-2027	28,010
5 year provision to 2017 Comprising: (8,493 – draft Main Modification – 450 double counting of windfalls) + (594 South Gloucestershire additional supply – 200 Over optimistic completions at NYNN) + 924 from new sites	9,361
Residual Requirement 2017-2027	18,649
Build Rate 2012 – 2017 (dpa)	1,872
Build Rate 2017 - 2027 (dpa)	1,865

Legal Opinion from  
Richard Phillips QC

## ADVICE

### SOUTH GLOUCESTERSHIRE CORE STRATEGY INSPECTOR'S DRAFT MAIN MODIFICATIONS

1. I am instructed by Barton Willmore (BW) to advise Barratt Developments PLC and David Wilson Homes whether the Inspector's recommended Main Modifications (October 2012), if accepted by South Gloucestershire Council, would result in a "sound" and legally robust Core Strategy(CS).
2. I have read the Council's response to the Inspector's main recommendations, as well as BW's representations of November 2012. Both the Council and my clients are strongly opposed, for common and different reasons, to what the Inspector proposes. I am unaware what other reactions the main modifications may have generated, but it is clear that the Council is implacably opposed to a key recommendation that an Interim Housing Statement is produced to deal with the shortfall in the number of dwellings required for the period 2012/13-2016/17. Unless at least that recommendation is withdrawn, it seems that the Council will not adopt the CS.

3. The Inspector has concluded that the CS is unsound but is capable of being made sound if a number of modifications are made.<sup>1</sup> He has observed, correctly in my view, that his proposed changes may give rise to further sustainability appraisal.<sup>2</sup>
  
4. The tests for assessing whether the CS is sound are set out in the NPPF.<sup>3</sup> The first, which requires the plan to be “positively prepared”, states that it should be based on a strategy which seeks to meet objectively assessed development requirements. The fourth test is that the plan should be consistent with national policy, which it explains requires the plan to enable the delivery of sustainable development in accordance with the policies in the NPPF. A key part of the section in the NPPF entitled “Delivering Sustainable Development” is part 6 in which paragraph 47 requires LPAs to ensure that their Local Plan meets “the full, objectively assessed needs for market and affordable housing”. If this CS has, on proper analysis, failed to provide for the full residential development needs of its area, not only would it be inconsistent with a “core planning principle” in the NPPF<sup>4</sup>, but it would plainly not be a sound plan and, therefore, would be susceptible to legal challenge if adopted.

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<sup>1</sup> §6 Preliminary Findings

<sup>2</sup> §17 Preliminary Findings

<sup>3</sup> §182

<sup>4</sup> §17,3<sup>rd</sup>. bullet

5. As the Inspector observes, there was considerable debate at the EiP on what was the appropriate level of housing provision and whether the Council could demonstrate a 5 year housing land supply (HLS)<sup>5</sup>. Despite increased provision put forward by the Council, the Inspector concluded that he *could not be certain* that the housing provision would be adequate. He found that there was sufficient evidence to suggest that the *majority* of needs could be met, but that *further work would be required to identify an adequate HLS* (my emphasis).

6. Those conclusions clearly demonstrate why the CS cannot be regarded as sound, at least on the present evidence base. As mentioned already, NPPF requires the Council to *ensure* that its plan meets the *full*, objectively assessed housing needs of its area. This plan, given the Inspector's conclusions, does not do that and so fails in its fundamental role of achieving sustainable development. As NPPF states, strategic policies should be included in the plan to deliver the homes needed in the area.<sup>6</sup> I appreciate that the Inspector went on to suggest that his "doubts" about the adequacy of the housing provision were tempered by the prolonged recession, borrowing difficulties and the confidence by purchasers to generate the level of demand associated with higher levels of provision. However, such effects - which are by their very

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<sup>5</sup> §7 Preliminary Findings

<sup>6</sup> §156 1<sup>st</sup>. bullet

nature of indeterminate duration - are in my view is no justification for the CS, with a plan period extending to 2027 during which economic conditions could change significantly from those now current, failing to make proper provision to meet in full the objectively assessed needs of its area.

7. The level of underprovision assessed by BW is considerably greater than that suggested by the Council. BW asserts that its evidence on the overall housing provision required in the plan period was the only objective assessment of housing need presented to the EiP. It demonstrated that provision should be made for at least 33,000 new homes over the period 2006-27. However, the Inspector's recommended modification to policy CS15 is based on only 28,355 new homes. Unless there is some convincing justification put forward for not accepting BW's figure, the CS may well be susceptible to challenge: the failure to make provision in full for the assessed housing needs would prevent it being sound.

8. The matter on which my clients and the Council are in full agreement is the inappropriateness of the procedure the Inspector is recommending for dealing with the HLS shortfall in the first 5 year period of the plan. His suggestion is that the Council should produce an Interim Housing

Statement (IHS)<sup>7</sup>. It is not entirely clear what process he has in mind, but it is clearly an informal one, outside the development plan and contrary to national policy in NPPF which repeatedly stresses the importance of the planned approach, the key role local plans play in delivering sustainable development and that such plans should include the policies to deliver the homes needed<sup>8</sup>. What the Inspector has in mind seems to go well beyond the acceptable scope of SPD<sup>9</sup> and usurp the function of the statutory development plan to provide for the housing needs of its area. I agree with the reasoning set out on p.14 of the Council's response to the draft major modifications. Its 4<sup>th</sup> reason is particularly apt: the CS cannot be considered sound "by deferring a key requirement to be fulfilled by the production of yet another document through a non-statutory process yet to be determined". That would represent a negation of the Council's plan-making role and, given the importance national policy attaches to housing development in delivering sustainable development, is not a matter that can be shuffled off to some informal process to which section 38(6) of the 2004 Act could not apply.

9. Whatever view one takes about the legality of the Inspector's suggested approach, as mentioned

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7. §10.6a of the draft Main Modifications

<sup>8</sup> e.g. §2, 17, 150 and 156 of NPPF

<sup>9</sup> §153 NPPF

already, the Council is fundamentally opposed to the IHS route, so that unless the Inspector withdraws that modification the CS is, it seems, destined not to be adopted. This would be an unwelcome outcome and the route to secure planning permission would perforce be by appeal rather than being plan-led. Clearly some other route which is legally robust must be found to avoid such an impasse.

10. The Council's response suggests that the shortfall in the first 5 years is 852 dwellings and that the IHS route is unnecessary because it has identified potential for an additional 594 units<sup>10</sup> and that the balance can be provided on a new allocation at Morton Way, Thornbury. My clients, however, based upon their objective assessment of housing need over the plan period, what allowance should sensibly be made for windfalls and how the existing shortfall should be made up, calculate that the shortfall in the first phasing period is 4,438 dwellings<sup>11</sup>. Not only is this considerably greater than the Council suggest, but it would be totally inappropriate, particularly at this stage in the process, to attempt to cater for such large numbers by tinkering with the CS through suggested main modifications.

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<sup>10</sup> Appx. B, table 1

<sup>11</sup> BW §5.9

11. It is not just in respect of the first 5 years of the plan period that the NPPF requires the CS to make provision for. The requirement in paragraph 47 to meet the full, objectively assessed needs is specifically applied to *the plan period* and LPAs are enjoined to identify a supply a supply of “specific, developable sites or broad locations for growth for years 6-10 and, where possible, for years 11-15”. However, the Inspector is recommending a main modification to policy CS15 that the “appropriate level of new homes (is) to be reviewed prior to 2021”, i.e. within about 8 years from when the CS might be adopted. In his preliminary findings he suggests this will enable the Council to have regard to post recessionary effects and address any long term deficiencies in housing supply.<sup>12</sup> This approach, if accepted by the Council, would I consider reinforce concerns that the Core Strategy was unsound for failing at the outset to make full provision for the entire plan period. It is not, in my view, appropriate to defer addressing “the full, objectively assessed needs” for housing on the basis that there will be a full review before 8 years from the likely date of adoption of the CS. That would be tantamount to ducking a key requirement of NPPF at the heart of the soundness tests in relation to housing provision.

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<sup>12</sup> §13 preliminary findings

12. Given the scale of the shortfall and the importance of addressing it through the development plan, I consider there is considerable force in BW's suggestion<sup>13</sup> that the EiP should again be suspended for a sufficient period to allow the full housing need to be properly reassessed, for there to be a further Sustainability Appraisal (SA) (as noted already, the Inspector appreciated the need for this), for the Council to identify the major sites required to meet the shortfall and for there to be full consultation on the changes put forward. These changes would then need to be examined at a reopened EiP. Although the further delay would be unwelcome, time spent now in ensuring that the CS goes forward on a legally secure basis, thereby avoiding legal challenges post adoption, could well save time overall.

13. So far as a further SA is concerned, the 2011 SA deliberately rejected option 4, the more dispersed pattern of development, and instead was based on option 5, a strategy which concentrated development within and adjoining the main urban areas.<sup>14</sup> Hence the only sites considered in the CS for allocations beyond the fringes of Bristol were those in or on the edge of Yate, Chipping Sodbury and Thornbury. The scale of the shortfall has now been demonstrated to be so large that the Council should properly assess the potential on the margins of other

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<sup>13</sup> BW §1.4

<sup>14</sup> see §3.6-6c

settlements in the Rest of South Gloucestershire. For example, I understand that my clients have promoted the suitability of Frampton Cotterell/Coalpit Heath/Winterbourne to accommodate housing growth. Unless this and potentially other settlements are the subject of a thorough SA, there is considerable risk that the plan's validity would be challenged for failing properly to assess settlements and sites suitable to accommodate housing growth.

14. In conclusion, the CS in the form presented to the Inspector has been found to be unsound. The scale of the housing need in the Council's area and the shortfall in HLS seems to have been considerably underassessed. The CS's evidence base and the accompanying SA seem materially deficient. The suggestions the Inspector has made to address the shortfall seem destined to be rejected by the Council. The IHS route is not a legally robust way forward; indeed, legal challenges seem inevitable if the Council did somehow overcome its fundamental objection to that course of action. The suggestion of a review so early in the plan period of the appropriate level of new housing only reinforces concerns that the CS has failed properly to meet the housing needs of its area over the plan period. In these circumstances, I consider the appropriate way forward, and that which would minimise the risk of legal challenges after adoption, is for the EiP to be suspended to allow the various

processes that BW's representations refer to be carried out. Whilst further delay will be caused, that may well be time well spent if it avoids the potentially much longer delays involved with legal challenges.

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