

Save Thornbury's Green Heritage

Further to the Inspector's Update of 21st June 2013 we would like to offer the following comments and observations for his consideration.

Save Thornbury's Green Heritage has consistently argued that the selection of Park Farm and the subsequent Sustainability Appraisal (SA) was inconsistent and flawed. Therefore, the Core Strategy, with respect to Thornbury, is unsound. However, the Inspector has confirmed that he considers the Core Strategy capable of being made sound. We would like to understand how the fundamental errors and bias in the SA will be addressed in order to comply with SEA requirements.

The recent decision by South Gloucestershire Council (SGC) to allocate Morton Way for further housing, which has been supported by the Inspector in the form of another Main Modification, is at odds with the statements and findings of the SA for Thornbury.

During the EiP it was established that the Option sites along Morton Way and that of Park Farm were broadly similar, apart from the heritage implications. This, again, is contrary to the evidence put forward in the SA.

The SA states: Options 1, 2 and 3 are all considered to be unsustainable. Morton Way presently forms a definite and highly defensible boundary to the entire eastern side of Thornbury. Development that breaks that boundary which extends onto land to the east would have two potential serious consequences for the town. The first is that development here, due to its remoteness from the town centre, would reinforce the commuter and dormitory town role of Thornbury. This would be heightened by Morton Way acting as a barrier to integration of that development with the rest of the town. Secondly, once the defensible boundary is broken, development there could set a precedent for continued expansion of the town eastwards and/or along the entire length of Morton Way in an area currently very rural in character. (4.41a)

If this is a true assessment of Options 1, 2 and 3, Morton Way should not have been allocated for housing as it is not sustainable. However, as we have argued from the beginning, the SA is not a true assessment or appraisal of development options for Thornbury, it is inconsistent in its application of criteria, it is inaccurate and its conclusions are flawed. We have provided numerous examples in our previous comments.

The SA (and Core Strategy) has to be compliant with the EU Directive, 2001/42EC ("the SEA Directive"). The objectives of the Directive, outlined in Article 1, state: *The objective of the Directive is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adaption of plans and programmes with a view to permitting sustainable development, by ensuring that, in accordance with this Directive an*

environmental assessment is carried out of certain plans and programmes which are likely to have a significant effect on the environment.

The development at Park Farm will have a significant effect on the environment; it is 26.21 hectares of greenfield development; it has been recognised that new infrastructure to support a bus route is essential for the development; this necessitates development across the flood plain and will breach a water course, an important biodiversity habitat. The Council has admitted that this development will cause substantial harm to listed buildings (as reported to the DC West Committee October 18th 2012).

The SA recognised flood risk, but failed to properly assess and evaluate the amount of flood risk of all development options, merely attaching the comment “SFRA2 shows areas of flood risk” to all sites, regardless of where the flood risk was in relation to the site, or the extent of any flood risk. There has been no attempt by the SA to evaluate the impact a new roadway will have upon the floodplain, only suggesting that the presence of Flood Zone 3 at Park Farm is an “opportunity for significant open space” and recommending that “further technical work” will be undertaken by the developer.

The SA recognised a number of heritage assets at Park Farm, including the “intrinsic landscape value” but failed to properly assess or evaluate the level of harm that would be caused by development in this area and failed to incorporate the assessment made by heritage officers into the SA.

The requirements set out in Article 12 (2) require Member States to ensure that “*environmental reports are of a **sufficient quality** to meet the requirements of this directive. Quality involves ensuring that **a report is based on proper information and expertise and covers all the potential effects of the plan or programme in question**. In addition the report should enable [members of the public] to understand why the proposals are environmentally sound.*”

The Inspector, at the beginning of his assessment of the Council’s Core Strategy (CS), referred to a judgement between Save Historic Newmarket v Forest Green District Council. In his judgement Judge Collins stated: *In order to be compliant with Article 5 of the SEA Directive the public must be presented with an accurate picture of what reasonable alternatives there are and why they are not considered to be the best option (Commission Guidance Article 5, paragraphs 5.11-5.14).*

*However, that does not mean that when the draft plan finally decided upon by the authority and the accompanying environmental assessment are put out to consultation before the necessary examination is held there cannot have been during the iterative process a prior ruling out of alternatives. **But this is subject to the important proviso that reasons have been given for the rejection of alternatives, that those reasons are still valid if there has been any change in the proposals, in the draft plan, or any other material change of circumstances***

and that the consultees are able . . . to know from the assessment accompanying the draft plan what those reasons are.

In identifying Morton Way North for further housing the Council identified it as “*the most sustainable option*”. It did not consider that there were any flood risks associated with the site, nor that the site was “remote”. In his S78 Appeal Decision regarding the Morton Way site Inspector Pope noted that, despite the Council removing all objections to the application, “*some residents and other third parties continue to object to the scheme.*” He addressed a number of his comments to the points raised by these objectors, points that replicate the findings of the SA:

- Morton Way forms a definite and highly defensible boundary

Inspector Pope did not agree with this description, he commented: “*The new buildings would be set back from Morton Way to create a ‘green street’ rather than replicate the rather harsh urban edge that currently exists*”

- Development here, due to its remoteness from the town centre, would reinforce the commuter and dormitory town role of Thornbury

Inspector Pope commented: “*There is no technical or other cogent evidence in respect of highway/transport matters to justify withholding permission.*”

- Once the defensible boundary is broken, development there could set a precedent for continued expansion of the town eastwards and/or along the entire length of Morton Way in an area currently very rural in character

Inspector Pope commented: “*each case must be determined on its own merits . . . In the event of any subsequent applications being submitted in respect of adjacent land the Council could, if it was so minded, withhold permission . . .*”

It appears that the reasons used by the Council in its Sustainability Appraisal to identify Morton Way as ‘unsustainable’ have not been supported by Inspector Pope. It follows that the criteria used in the SA are not sound.

Furthermore, Inspector Pope commented: “*Inconsistencies over the handling of this application and other proposals fall outside my remit.*” He is correct in this assertion of an inconsistent approach.

The recent planning applications for Thornbury show that the site selected and approved by the council (Park Farm) has a much higher density (up to 50 hph), in a green field and sensitive, location, causes substantial harm to listed buildings, and approves 400 houses with no bus link . The site rejected in the SA as being “unsustainable” (Morton Way) has a density of up to 35 hph (in keeping with its green field location and sympathetic to existing development), does not cause harm to the historic environment and is already on an existing bus route. The planning

approval for Park Farm has been determined for 500 houses, despite the Inspector's Main Modification for "up to 500 houses".

The Council has not just been inconsistent in its handling of planning applications, we have argued that the Council has been inconsistent throughout this entire process, for example: in its application of criteria to Thornbury options; its consideration of negative impacts (e.g. flood risk); its consideration of benefits (e.g. access). Recently the Council has also been inconsistent in its arguments regarding its 5 year housing plan. In April it stated to Inspector Pope; "The Council accepts that it does not have a 5 year supply" (paragraph 5.1 SGC Morton Way Rebuttal statement), yet its latest statement of the 7th June 2013 concludes; "there is a 5 year deliverable housing supply". All these inconsistencies are, surely, a matter for the Core Strategy Inspector to consider in determining the soundness of the Council's plan.

The Inspector is aware of a number of other issues and failings surrounding the site selection in Thornbury that we have raised previously; Thornbury Steering Group keeping no minutes or notes, the Policy Advisory Group being misinformed that Morton Way was in the Green Belt, and that the technical heritage assessment by specialist officers was withheld until after all voting on the CS had taken place (amongst others). These are matters which formed the basis for an official complaint and are currently being considered by the Ombudsman.

In its response to our complaint the Council agreed that *"it would have been advisable for the Thornbury Steering Group to note the actions arising from the meetings so as to ensure that all actions were carried out"* and will, in future, recommend that all groups keep appropriate records: *"as a recommendation for the future we feel that groups should be advised to keep an appropriate record of the outcome of informal meetings . . . it may be helpful if the practice of more consistently agreeing terms of reference for informal groups and noting actions arising therefrom was undertaken in future instances"* (SGC/CO24 15-13).

The Council response to misinformation being presented to the Policy Advisory Group; *"this matter was previously addressed in the 11th October 2011 letter to the CS Inspector"*. This letter stated the facts of the Green Belt, it made no attempt to "address" or explain the matter; however, the Council now claim that this *"was nothing more than an error in the drafting of the minutes. . . Accepting this error as a matter of fact, I am fully satisfied that all parties had a full opportunity to advise the Core Strategy EIP Inspector of any failings."* (SGC/CO24 15-13).

It is clear that the policy for Thornbury was decided by two committees, one which kept no minutes or notes, the other which either kept erroneous minutes, or presented the wrong information to members, whichever is correct; the Council failed to provide any evidence to support their assertion that the minutes were wrong. Members had no specialist information to rely on as the heritage report was withheld

until January 2012, after all decision making. Despite the decision for Thornbury being ratified by Full Council, the failures prior to formal decision making show the Council failed to keep an accurate audit trail, thus failing to be transparent and robust in its planning decisions.

The Inspector will need to be satisfied that the site selection process for Thornbury was sound and properly justified, and based on true and accurate information available at the time of selection. He will also need to be convinced that the SA is of a sufficient standard to meet the required EU legislation.

Furthermore, the Council shows a history of failing to comply with the relevant EU SEA legislation. It failed its statutory duty to carry out a lawful EIA screening opinion for the planning application for Park farm. This is now included as grounds in the case of R v South Gloucestershire Council CO/7047/713, a legal challenge with regard to the planning permission approval for the Park Farm site.