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For and on behalf of
Avant Homes Central

STATEMENT OF CASE

Appeal against the refusal of Full Planning Permission (LPA ref 19/03143/FUL) for 74 dwellings on Land at Moorthorpe Way, Owlthorpe, Sheffield

**Prepared by
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CONTENTS	PAGE
1.0 Introduction	4
2.0 Site location and Description	6
3.0 Planning History	7
4.0 The Appeal Proposal	8
5.0 Planning Policy Context	9
6.0 Case for the Appellant	11
7.0 Planning Conditions and Obligations.....	18
8.0 Conclusions	19
Appendix 1 - Justification for Inquiry procedure	20

1.0 INTRODUCTION

- 1.1 This Statement of Case has been prepared on behalf of Avant Homes Central (the “Appellant”) It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of land at Moorthorpe Way, Owlthorpe, Sheffield (the “Appeal Site”).
- 1.2 The appeal follows the refusal of full planning permission by Sheffield City Council (the “Council”) for the development of 74 dwellings, formation of access road, associated landscape works, open space works and flood storage works (ref: 19/03143/FUL).
- 1.3 The application was refused by Members of the Planning Committee on 2nd June 2020 against the recommendation of officers to approve the application. One reason for refusal was provided as follows:

This standalone proposal relating to the site known as "Owlthorpe site E" is prejudicial to the proper planning of the wider area, contrary to paragraph 3.2.6 of the "Housing Sites (C, D, E), Moorthorpe Way, Owlthorpe Planning and Design Brief" (July 2014; Updated November 2017), which supports a comprehensive scheme for the application site together with neighbouring sites C and D. The proposal does not respond sufficiently to the area's prevailing character of abundant green infrastructure and open space, contrary to paragraphs 122 and 127 of the National Planning Policy Framework. In addition the proposal fails to make efficient use of land due to the low housing density proposed and fails to adequately integrate the affordable housing into the proposed layout, contrary to paragraphs 8, 122 and 123 of the National Planning Policy Framework, Core Strategy Policies CS26 and CS40 as well as policy GAH5 of the CIL and Planning Obligations Supplementary Planning Document and is not considered to be sustainable development.

- 1.4 The Appellant considers that a Public Inquiry would be the most appropriate appeal procedure in this case. The Appellant’s justification for an Inquiry is provided at **Appendix 1**.
- 1.5 It is anticipated that the issues in dispute can be narrowed down through Statements of Common Ground (SoCG). The Appellant has sought to engage with the Council regarding a SoCG before this appeal was lodged, to seek clarity on matters that are not in dispute and save time and costs. The Council has not responded. Nevertheless, the Appellant reserves

the right to submit relevant material, including appeal decisions, and respond to evidence supplied by the Council and or interested parties. A list of core documents to be referred to during the appeal is included in the draft Statement of Common Ground.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The appeal site is in the Owlthorpe area of south-east Sheffield. Owlthorpe is identified in the Sheffield Core Strategy as part of the Sheffield Urban Area.
- 2.2 As part of the urban area, Owlthorpe is well served by a range of services and facilities, and when combined with the existing public transport links to the surrounding area, represents a sustainable location for development.
- 2.3 The appeal site extends to 3.86 hectares of former agricultural land, now scrubland, to the north of Moorthorpe Rise and south of Moorthorpe Way.
- 2.4 The main part of the appeal site is identified as Site E in the Council's Housing Sites (C,D,E) Moorthorpe Way, Owlthorpe Planning and Design Brief. The proposed areas of public open space (POS) and drainage attenuation within the appeal scheme are located adjacent to the sites identified in that document as C and D respectively.
- 2.5 The main part of the site is bound by woodland (including the Ochre Dyke) forming part of the Owlthorpe Local Wildlife Site (LWS) to the north, the Woodland Heights (Moorthorpe Rise) housing estate to the south, the Owlthorpe Medical Surgery, a Public Right of Way to the east and open land to the west. Access to the site is via the existing roundabout on Moorthorpe Rise adjacent to the Medical Centre adjoining the site. Moorthorpe Rise leads to Donetsk Way to the north and provides connections to services in the wider area.
- 2.6 There are no statutory designations (SSSI/SAC/SPA) within the appeal site and it is wholly located within Flood Zone 1, the zone with the lowest probability of flooding.
- 2.7 The appeal site is wholly within the ownership of Sheffield City Council and the option to purchase the site held by Avant is subject to obtaining planning permission.

3.0 PLANNING HISTORY

- 3.1 The planning history of relevance to this appeal will be identified in the Statement of Common Ground.

4.0 THE APPEAL PROPOSAL

4.1 The description of development for the appeal scheme is:

“Erection of 74no. dwellings, formation of access road, associated landscaping works, open space works and flood storage works”

4.2 The proposals would deliver 59 market homes (3-5 bedroom) and 15 shared ownership affordable homes (2-4 bedroom). The affordable housing provision is 5% above the local policy requirement of 10% of the proposed floorspace being affordable.

4.3 The proposals represent a density of 35 dwellings per net developable hectare. The remaining areas of non-developable area comprises a 15m landscape buffer, public open space (including LEAP) and a SuDs attenuation basin, which will all be subject to a Management Plan.

4.4 Access will be formed from the existing highways spur adjacent to the medical centre and the scheme provides a total of 184 parking spaces and 14 visitor spaces.

4.5 The existing PRoW and bridleway to the east will be retained and widened in places to provide an improved pedestrian and cycle route between, the appeal site, the Woodland Heights Estate and Donetsk Way to the north. An additional footpath connection will be provided from east to west through the site to connect to existing informal footpath routes within the surrounding area to the west.

4.6 Detailed pre-application discussions were undertaken with the Council prior to submission of the planning application and the outcome of these will be set out in evidence.

4.7 The appeal proposal will be described in greater detail in the Appellant’s planning evidence and is set out in the supporting documents accompanying the appeal. A list of Core Documents that will be referred to during the course of the appeal is appended to the draft Statement of Common Ground. The Appellant reserves the right to add or amend this list of documents as necessary prior to the submission of Proofs.

5.0 PLANNING POLICY CONTEXT

5.1 The Appellant will refer to the development plan for the purposes of determining planning applications under Section 38(6) of the Planning and Compulsory Purchase Act 2004, which comprises:

- a. The Sheffield Local Development Framework: Core Strategy 2009-2026 - adopted in March 2009 (“the Core Strategy”)
- b. The saved policies of the Sheffield Unitary Development Plan – adopted March 1998 (“the UDP”)

5.2 The Appellant will demonstrate that the principle of residential development on the appeal site is well-established and is in accordance with the Development Plan overall. It is the Appellant’s case that some aspects of the UDP, particularly related to the precise boundaries of the allocation of the Appeal site, are out of date and have been overtaken by changed policy and circumstances.

National Guidance

5.3 The Appellant will also refer to relevant guidance within the National Planning Policy Framework (the “Framework”) and the National Planning Policy Guidance.

Other relevant documents

5.4 The Appellant will refer to the following documents as required:

- *Housing Sites (C, D, E), Moorthorpe Way, Owlthorpe Planning and Design Brief” (July 2014; Updated November 2017) (the “Planning Brief”)*
- *Sheffield City Council - CIL and Planning Obligations Supplementary Planning Document (SPD, 2015)*

5.5 The Appellant will refer to the fact that the Planning Brief has been subject to public consultation on two occasions and approval by the Planning and Highways Area Committee. Whilst significant weight should be given to this document in principle, there are some aspects of it that the Council has rightly acknowledged are overtaken by changed circumstances, information or events and cannot be relied upon.

Five Year Housing Land Supply

- 5.6 The most up to date published figure endorsed by Cabinet and set out in the Council's *5-Year Housing Land Supply Statement* – 31 March 2019 (published May 2020) contends that the Council was able to demonstrate a 5.1 years supply of deliverable housing land as at April 2019. The Appellant will refer to the fact that the Appeal Site forms part of the Council's identified five year land supply in that document. It is assessed to be fully delivered by [2023/24] and to deliver [72] dwellings by that time.
- 5.7 The Appellant will reference the datedness of the supply (given it claims to identify 5 years supply from April 2019 and that is now almost 18 months ago) at the time of publication and the reduction of the supply since that time. In that context, the Appellant reserves the right to examine the Council's five year housing land supply if this is not an agreed matter in the SoCG at the time of the anticipated public inquiry.
- 5.8 The Appellant will also refer to relevant case law where appropriate.

6.0 CASE FOR THE APPELLANT

6.1 A draft Statement of Common Ground between the Appellant and the Council has been submitted as part of the appeal to help narrow down the issues that remain in dispute. It was sent to the Council at the start of August 2020 in the hope that it would allow identification of issues that are not in dispute and therefore save time.

6.2 The Appellant is seeking to agree through the SoCG that the technical documentation submitted with the application is accepted as being robust and providing the relevant level of information in a sufficient level of detail, to provide the basis for the Inquiry's consideration of the appeal.

6.3 It is expected that the SoCG will record that the Appellant and LPA agree on non-contentious matters including: -

- Format of Planning Application and Supporting Material
- Environmental Impact Assessment
- Principle of Development
- Development Plan Designations
- Design (excluding density)
- Access and Highways
- Facilities and Accessibility
- Landscape
- Impact on Residential Amenity
- Housing Mix
- Affordable Housing (excluding location within the site)
- New Public Open Space Provision
- Trees
- Ecology
- Contamination/Ground conditions
- Heritage/Archaeology
- Noise and Air Quality
- Flooding and Drainage
- Sustainability
- Public Benefits

6.4 The Appellant reserves the right to address any such issues that are not agreed.

6.5 The Appellant will also address issues by the public and other objectors as necessary.

The Main Issues

6.6 Based on the single reason for refusal, the Appellant anticipates that the main issues for this appeal will be as follows (some of which are capable of being agreed before the public inquiry opens): -

- **Issue 1 - Comprehensive Development**
- **Issue 2 – Effect of the scheme on green Infrastructure and character**
- **Issue 3 - Affordable Housing Location**
- **Issue 4 - Density**

6.7 The Appellant will present evidence to address each of the main issues and will demonstrate that; in respect of issue 1, there is no harm to the development of the Council owned adjacent plots (C and D) caused by the development proposals and there are no development plan policies referenced by the Council; in respect of issue 2, the proposals strike the correct balance between achieving residential development of the site, in line with policy and respecting the character and green infrastructure of the area and there is no policy referenced by the Council to consider in that respect ; in respect of issue 3, there is no conflict with Policy CS40 and an appropriate arrangement for affordable units on the site is established; and in respect of issue 4, the proposals strike the appropriate balance in terms of the density achieved, taking account of other considerations including character, in accordance with Policy CS26.

6.8 The Appellant will demonstrate that the proposals represent sustainable development as defined by the Framework and will set out the reasons why permission should be granted without delay.

Issue 1 - Comprehensive Development

6.9 The reason for refusal alleged harm to the proper planning of the area as a result of the proposals, which was suggested to be prejudicial to the delivery of development sites C and D, contrary to paragraph 3.2.6 of the Planning and Development Brief. No development plan or other policy is identified by the reason for refusal on this topic.

6.10 The Appellant will present evidence that the proposals accord with all up to date and relevant elements of the Council's Planning Brief, including paragraph 3.2.6.

- 6.11 The Appellant will demonstrate that the proposals will assist in the phased delivery of the wider housing area, as envisaged by the Planning Brief, without prejudice to that development.
- 6.12 The Appellant will demonstrate that their approach to the appeal scheme was informed by thorough analysis of all constraints and through detailed pre-application discussions with officer's. The Appellant's evidence will demonstrate that indicative masterplans were prepared by the Appellant and the Council to inform the layout of the appeal scheme and that the proposals are in accordance with the principles of the Illustrative masterplan and other documents in the Council's Brief.
- 6.13 The Appellant will show that the delivery of the proposed POS and drainage attenuation will not have a detrimental impact on Sites C and D and will assist with the delivery of those phases. The appeal scheme will not prejudice but support the delivery of infrastructure to serve the wider housing development, including drainage and POS provision for the benefit of future residents of Sites C and D.
- 6.14 The Appellant will present evidence that the appeal scheme will not harm the comprehensive development of the housing area, but to the contrary will support the objectives of the Development Plan and the Planning Brief in relation to the delivery of housing on the Appeal site.

Issue 2 - Green infrastructure and Character

- 6.15 This issue within the reason for refusal alleges that the proposals do not respond sufficiently to the area's prevailing character of green infrastructure and open space. The only policy referred to in the context of this aspect of the refusal is NPPF 127 (and possibly NPPF 122- but this is a density related policy and is addressed below). No development plan policy is relied on in this aspect of the refusal.
- 6.16 The Appellant will demonstrate that the proposals achieve the appropriate balance between the development of the site for housing, as set out in the Development Plan and respect for the character of the area, as well as wider policy objectives regarding density and the efficient use of land.
- 6.17 It is the Appellant's case that the principle of change to the character of the area has been

accepted by the Council in allocating the site for housing. Furthermore, in preparing the Planning Brief, the Council has clearly articulated the form of development anticipated for the housing sites to strike the appropriate balance between competing planning considerations.

- 6.18 The Appellant's evidence will demonstrate that the proposals are appropriately consistent with the Planning Brief and represent a balanced response to all considerations including ecology, trees, landscape and open space, as well as density, as agreed by officers. The Appellant is aware that such matters may be raised by third parties and reserves the right to present evidence on these matters as necessary.
- 6.19 The Appellant will demonstrate that whilst it is necessary to strike a balance between accommodating development and respecting character, in this case an appropriate balance is achieved, and material benefits are secured from the proposals.
- 6.20 In evidence, the Appellant will demonstrate that the proposals are consistent with the principles set out in the Planning Brief, including in regard to developable area, townscape, landscape and retained green space. The Appellant will demonstrate that whilst minor departures are made from the Brief in design terms, the overall balance of green infrastructure envisaged to be retained is achieved and in places is more extensively retained than the Brief envisaged.
- 6.21 The Appellant will contend that in considering character, paragraphs 127(c) of the framework, encourages development sympathetic to local character, but does not '*prevent or discourage ... change*'. The Appellant will argue that the application of this is a matter of judgement and that the proposals represents an appropriate response to the character of the area, particularly within the context of the Council's objective to achieve a higher density of development within the Appeal site.
- 6.22 The Appellant will confirm that there is no harm arising from the proposals in respect of green infrastructure and character that would warrant refusal and that the Council does not identify the proposals as being contrary to any Development Plan policies in this regard.

Issue 3 - Affordable Housing

- 6.23 It is the Appellant's case that the proposals are entirely in accordance with Policy CS40 in respect of the requirement to provide affordable housing within new housing sites.

- 6.24 The Appellant will confirm that the level of affordable housing provision within the Appeal Site exceeds the requirement set out in GAH2 of the Planning Obligations and CIL SPD (15% of proposed floorspace against a policy requirement of 10% of floorspace). The Appellant will argue that this benefit should be attributed significant weight, particularly within the context of evidence of very limited affordable housing provision in recent years and a significant need for affordable housing in the City.
- 6.25 The Appellant will demonstrate that the design of the affordable housing accords with all of the criteria set out in GAH5 of the SPD.
- 6.26 The appellant will confirm that the type, size and tenure of both the affordable and market dwellings was agreed through discussion with the Council's housing officer, to meet the identified local housing need. The resultant layout reflects the Appellant's overarching design approach to the location of higher density housetypes (market and affordable housing) closer to the centre of the housing area, around the existing medical centre, whilst locating lower density housing adjacent to the outer boundaries of the site. The agreed affordable housing houstypes and sizes are therefore naturally more centrally located.
- 6.27 The Appellant will also confirm that the location of the affordable housing provision within the site enables the early delivery of affordable dwellings within the construction period to meet current and pressing affordable housing needs.
- 6.28 The Appellant will contend that it is important to also consider the affordable housing provision in the context of Sites C,D and E of the Housing Area overall. Within this context, the provision of affordable housing within each site will lead to significant dispersal and positive integration of provision throughout the wider area.
- 6.29 Notwithstanding the Appellant's position that there is no harm arising from the affordable housing provision and no conflict with the Development Plan, the Appellant is undertaking further discussions with the Council regarding the position of the affordable housing within the site. They are seeking the Council's views on an amended plan that adjusts the position of the affordable provision to respond to Committee Members concerns regarding the integration of affordable housing within the site and are prepared to make this adjustment to narrow issues of dispute as a matter of expediency.
- 6.30 The Appellant is seeking the Council's co-operation in undertaking further consultation on

the amendments to obtain the views of interested parties. Based on the anticipated amendments, it is not considered that these will be prejudicial to any parties to the appeal. The changes are limited and do not go to the heart of the proposals. It is anticipated that matters relating to the location of affordable housing within the appeal site may be agreed ahead of the public inquiry.

Issue 4 – Density

- 6.31 The Appellant’s approach to density within the appeal scheme was informed by thorough analysis, of the site, Development Plan policies and the Council’s Planning Brief. The reason for refusal alleges inefficient use of land as a result of the low housing density proposed, contrary to paragraph 122 of the Framework and Policy CS26.
- 6.32 The Appellant will demonstrate that the density proposed is appropriate and in accordance with CS26 and achieves an appropriate balance within the context of other planning considerations including the character of the area, as set out under issue 2 in this Statement.
- 6.33 The Appellant will demonstrate that the approach to density anticipated in CS26 is in accordance with paragraphs 122 of the Framework, and Paragraph 123 when taken together.
- 6.34 The Appellant will contend that within the context of CS26, the starting point for consideration of density is the specified density ranges dependant on the location of the site, however the policy also requires an adjustment to be applied to ‘*achieve good design, reflect the character of the area or protect a sensitive area*’. In the case of the Appeal site, it will be demonstrated that the relevant density range of 40-60 dwellings per hectare has been appropriately adjusted to reflect consideration of character as considered in Issue 2 of this Statement.
- 6.35 The Appellant’s evidence will demonstrate that the proposed density of 35 dph accords with the density range of 30-40 dph anticipated for the housing area within the Council’s Planning Brief (pg. 12, para. 5.1.2). The Appellant will demonstrate that the Brief arrived at these densities based on a balancing exercise informed by analysis of site constraints including landscape, topography and the need for family housing of a lower density in this location.
- 6.36 The Appellant will argue that the density is consistent with the Planning Brief and that any increase in density would result in a worse outcome with reference to design and the

character of the area.

The Planning Balance

- 6.37 It will be demonstrated that the proposals represent sustainable development, contributing to the social, economic and environmental roles of sustainable development as defined in Paragraph 8 of the Framework.
- 6.38 The Appellant will identify the benefits of the proposed development and will attribute weight to each of these for the purposes of the overall planning balance. Evidence will be presented that to the extent to which any adverse impact is identified, this is outweighed by the benefits of the proposals.
- 6.39 The Appellant will demonstrate in evidence there is no conflict with Development Plan policies as alleged by the Council in the reason for refusal. Furthermore, it will be demonstrated that the development is in accordance with up to date policies of the Development Plan as a whole, and that within the context of Paragraph 11c of the Framework, the proposals should be approved without further delay.

7.0 PLANNING CONDITIONS AND OBLIGATIONS

- 7.1 The Appellant will endeavour to agree a list of planning conditions and a package of Section 106 contributions, in accordance with those set out in the officer's report to Planning Committee, through discussions with the Council in respect of the Statement of Common Ground.
- 7.2 The Appellant will seek agreement with the Council regarding Section 106 obligations to ensure that financial contributions towards necessary off-site infrastructure can be secured and an agreement presented to the Inspector before the start of the Public Inquiry.

8.0 CONCLUSIONS

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2 The Appellant will evidence that the Appeal scheme is in accordance with the Development Plan when considered as a whole and forms part of the Council's five year housing land supply.
- 8.3 The Appellant will contend that Paragraph 11c of the Framework indicates that where development proposals comply with an up to date Development, as is the case here, they should be approved without delay.
- 8.4 In detailed evidence, the Appellant will demonstrate that the proposals have resulted from detailed discussions with the Council both prior to and during the determination of the application, reflect a balanced response to the site, and represent the most appropriate scheme for the site based on detailed assessment of technical matters.
- 8.5 In so far as any conflict or harm may be identified, contrary to the Appellant's evidence, this harm will be demonstrated not to outweigh the significant benefits of the appeal scheme.
- 8.6 The Appellant will demonstrate that benefits of the proposals include:
- The provision of family housing to meet an identified need as part of the five year housing land supply;
 - The provision of 15% affordable housing in exceedance of policy compliant requirements;
 - The economic benefits arising from the construction and spending in local businesses, as well as contributions to infrastructure through the provision of a CIL contribution;
 - The social benefits from the provision of new childrens play facilities, planning contribution to tram stop upgrades and future occupiers use of local facilities aiding retention and enhancement;
 - Environmental benefits of the landscaping associated with the woodland buffer and drainage attenuation areas, which will also support development on site D; and
 - Planning contributions to biodiversity, footpath enhancements, open space masterplanning LWS enhancements and landscape and open space management and maintenance works;

APPENDIX 1 - JUSTIFICATION FOR INQUIRY PROCEDURE

The Appellant considers an Inquiry to be the only suitable procedure for the consideration of this matter. This document sets out a justification for this, taking into account the criteria set out in the PINS guidance document dated July 2020 entitled “Planning Appeals – England”, Annexe K.

Based on the Reasons for Refusal (RfR) and the current status of the Development Plan, the Appellant considers that the following factors dictate that the Public Inquiry procedure is the most appropriate:

- a) The need for the evidence to be tested through formal questioning by an advocate. Although there is only one reason for refusal, this reason encapsulates four separate elements relating to matters of affordable housing, density, green infrastructure and comprehensive development. There is also an interplay between these matters. The Appellant will need to be represented by an advocate testing the credibility of the reasons for refusal which can best be resolved through cross-examination.
- b) The issues are complex. The appeal scheme was recommended for approval by the Council’s planning officer but refused by Members of the Planning Committee with reference to issues that are not entirely clear to the Appellant upon reading the reason for refusal. The Council also has an ownership interest in the Appeal Site and the surrounding area that goes to the heart of the comprehensive development issue and the multifaceted issues are more complex than the matters which can be addressed in a Hearing procedure.
- c) There is substantial local interest. The planning application subject of this appeal raised over 330 letters of representation from third parties and objections from Sheffield and Rotherham Wildlife Trust, Campaign to Protect Rural England, Owlthorpe Fields Action Group and Clive Betts MP. The case is of interest to local people and the level of interest and number of people who may wish to speak are likely to make this difficult to manage within the time and procedural constraints of a hearing. Subject to the matters agreed through the SoCG, the Appellant expects to call a number of Expert Witnesses to advance its case and the Council may well require a number of witnesses also. Given this, there is no prospect of the case being completed in one day (or even a two day hearing).

For the above reasons, the Appellant considers an Inquiry is the appropriate procedure in this Case.

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