

Sarah Hull - Rebuttal

Appeal By: Avant Homes Central

Site At: Land Off Moorthorpe Way, Sheffield, S20 6PD

Appeal Against: Sheffield City Council

LPA Reference: 19/03143/FUL

PINS Reference: APP/J4423/W/20/3258555

Date 8th January 2021

1. **Introduction**

1.1 These comments have been prepared by Sarah Hull in respect of Planning Appeal Reference APP/J4423/W/20/325855.

1.2 This statement does not introduce new materials or arguments. It provides additional comments on the amended plans received on the 11th December in relation to the green character and infrastructure of the site and as referred to in paragraph 1.3 and 1.4 of my Proof of evidence. It further provides a rebuttal on Richard Walsh, Roland Bolton and Mark Toppings Proofs of evidence. The Proof is separated into sections which reflect the key issues as previously identified in the minutes of the Case Management Conference.

1. **Green Character and Infrastructure**

2.1 As detailed in paragraphs 1.3 and 1.4 of my Proof of Evidence, I had insufficient time at the time of exchange of Proofs to carry out a full assessment including liaison with relevant consultees on the amended plans. My comments on the green character and infrastructure are brought together. Where relevant the comments include rebuttals to the Proofs of Evidence.

2.2 The amended plans incorporate a number of changes which have a positive impact on the green character and infrastructure of the site. The landscape plans (CD1.14B and CD1.15B) now indicate the provision of an informal footpath within the northern landscape strip. This is acknowledged as a positive change, and one which was requested during the course of the original planning application. However, that being said, caution is exercised in the level of detail provided in the plans; levels are not included on the landscape drawings and the levels drawings (CD1.18, 1.19 and 1.20) do not indicate the footpath. Further, it is not clear whether the path lies within the root protection areas of the ancient woodland and details of the construction and surfacing have not been submitted.

2.3 The amended arboricultural survey (CD2.10A) now indicates the trees along the west boundary, notably tree groups G11a, G11b and G12 to be outside the site boundary and therefore retained. These trees are described within the arboricultural impact assessment (CD2.9B) as Category B trees which are good specimens and important in providing links between the two woodland areas classified as local wildlife sites. This amended position in terms of retention of these tree groups is viewed positively. However, the development turns it’s back on these category B trees, placing a boundary fence adjacent to the trees and failing to adequately incorporate them into the design of scheme. The Planning Brief illustrates at figure 20 how the now retained landscaping along this boundary could be successfully integrated into the design. The failure to incorporate the landscaping which is an intrinsic part of the green character of the area is contrary to Policy G1 and G2 of the Planning Brief which requires the interfaces between the development and open space or woodland edges to be carefully designed to provide value to new residents and for the landscape setting to feature significantly in the development of character. Failure to adequately incorporate the now retained tree groups into the character of the site is contrary to CS74(a) and paragraph 127 (b and c) of the Framework.

2.4 It is my view that the design of the scheme which turns its back on the now retained category B trees along the west boundary, instead placing a hard, unnatural, engineered edge adjacent to this feature is no different to the many examples sited and criticised in Richard Walshaw’s Proof. Section 3.13 of Mr Walshaw’s Proof describes how the interface between existing developments in the area and their woodland edges is ‘poorly conceived…with housing development turning it’s back or sliding on’ to these publicly accessible spaces, with no active frontage or natural surveillance created.’

2.5 Mr Walshaw is correct in paragraph 3.14 that the design brief seeks to rectify the established pattern of development by providing frontage to woodland edges. He goes on to state in 6.14 that the development creates an outward looking approach. He does not however acknowledge that the proposed development fails to create such an outward looking design to the western or southern boundaries. If the development of Site E is permitted to create such a relationship with it’s boundaries, this will establish a design principle which will allow the recreation of a similar design for Sites C and D. This would be contrary to the Design Brief which seeks in G1 to create sympathetic and carefully designed interfaces between development and its edges.

2.6 The proposal includes the loss of the hedge to the south of the site; this is detailed as defunct in appendix 2 of the Ecological Appraisal. Nevertheless, the hedge and landscaping along this boundary provides a clear and highly visible green edge to the development site which adds to its green character and infrastructure. This boundary is identified as a sensitive green edge in Section 6.3 of the Planning Brief.

2.7 The hedge will be replaced along the southern boundary, adjacent to plots 51 to 58 with a retaining wall which will vary between one and three metres in height (External Levels Drawing). The Boundary Treatment Drawing details that a 1.8 metre high timber fence will be positioned above the retaining structure. The retaining wall plus fence will cover a boundary length of approximately 136 metres and will result in a hard, engineered edge which will detract from the original green character of the site. Whilst trees will be retained outside of the site beyond these boundaries, the new boundaries will be clearly visible from the adjacent footpath and highway and will significantly alter the character and appearance of the site. The development fails to take the opportunity to incorporate and enhance the landscaping along the south and west boundary adjacent to the existing green open space and local wildlife site. As such the development is contrary to Guideline G1 of the Planning Brief, Unitary Development Plan Policy GE15(b), Core Strategy Policy CS74(a) and paragraph 127 (b) of the Framework.

2.8 I do not agree with Mr Walshaw’s view that the design of the south west edge is justified to avoid fronting onto 3m high retaining walls (6.11).

2.9 The amended plans now involve the removal of additional trees within the landscape buffer adjacent to the Ancient Woodland to the north of the site. The additional trees to be removed include trees groups G7a, G7b, G7c, G8a, G8d and G8e. The arboriculture assessment (CD2.10 A) describes tree groups G7a-G7f, G8a -G8e and G9a-G9b as combining as a whole to provide a screen along the existing footpath. The report recommends that young trees which exhibit good health and form should be retained to maintain this screening value for the footpath and to provide longevity of canopy along the woodland edge. Despite this, the majority of trees within this woodland edge have been shown to be removed. The previous plans showed these trees to be retained and given the built development does not infringe upon these areas, their loss is not adequately explained.

2.10 The additional trees to be removed identified above are a mixture of willow, hazel and alder and form a successional woodland adjacent to the Ancient Woodland which has developed over a number of years. The trees have come from seed, set from a local source. and are now an intrinsic part of the site’s natural landscape and green character and as such should be retained.

2.11 The arboricultural report identifies the trees noted in paragraph 2.6 as being young species. Mark Topping’s Proof identifies at 2.2.15 that the trees on site are predominantly ‘small to medium sized trees of a predominantly low arboricultural value…’. It is held that young trees have not yet reached their full potential, retention of the young specimens will allow greater contribution to value in the future. In short, whilst young trees have lower value, their potential is significant.

2.12 The proposed landscape scheme for the buffer zone creates a linear landscape which will take years to reach maturity. The landscape plan illustrates the creation of only a very small woodland area to the north of plots 23-25, the remainder of the scheme involves linear trees within linear ordered low level planting. It is considered that the proposal fails to incorporate the existing natural, organic woodland character of this part of the site, instead replacing it with an entirely new and ordered solution. A scheme which creates a more natural, organic and site specific response, incorporating the existing landscape whilst supplementing with regenerating planting would enable the existing character of the site and adjacent woodland to be retained.

2.13 Mr Walshaw states at paragraph 2.3.4 that the amendments will ‘integrate the development into the woodland to the north as opposed to creating a setting for the woodland in its own right as was the design approach of the application scheme’. It is my view that the correct approach is to protect and enhance the setting of the Ancient woodland. The proposals fail to incorporate the landscape setting and features into the scheme. In my view, Mr Walshaw has it the wrong way round in trying to integrate the development into the woodland as opposed to integrating the woodland into the development.

2.14 Mr Walshaw’s Proof states in various places, including at 5.54 that the site creates a frontage to the woodland area and protects and retains this area. However, the amended plans indicate the removal of additional tree groups from the successional woodland area in the buffer zone. The resulting impact is the removal of this natural and organic area of woodland and replacement with a new landscape, thereby failing to integrate the green character of the site into the development.

2.15 It is my view that the failure to incorporate the existing planting within the buffer zone into the scheme erodes the sites intrinsic natural green character and fails to enhance landscape quality, or incorporate the setting into the character of the development. This is not adequately compensated for by the proposed landscape scheme. This is contrary to Guidelines G1 and G2 of the Planning Brief and Policy H15 (b), CS74 (a) and paragraph 127 (c).

2.16 The amended plans allow for the retention of some category B trees within tree group G9(a), however as detailed in Mr Topping’s Proof, 57% of this tree group will be removed to facilitate development. These trees are identified in CD2.10.A as ‘Mixed group of trees, dense growth with very dense undergrowth, mostly small narrow trees as pioneer species’ and are recommended for retention.

2.17 The cumulative impact of the loss of the category B trees withing G9a and category C trees, put simply removes the successional woodland edge which is a characteristic feature of the site and replaces it with a new artificial landscape scheme. The alterations to the buffer zone will significantly and unacceptably detract from the intrinsic character of the site and fails to strike the right balance between retention of character and built development. As such this is contrary to Guidelines G1 and G2 of the Planning Brief, Policy H15(b), CS74(a) and paragraph 127 (c).

2.18 The proposal involves some development within the buffer zone including regrading works, along with a small amount of built from by way of parking, turning head and access roads. Further, the levels information shows a number of retaining features along the woodland edge. It is held that any intrusion into the 15 metre buffer zone is contrary to the requirements of the Design Brief and will have a detrimental impact on the natural form and appearance of this area.

2.19 The site at present is of a green and open character, as such any development will invariably lead to a change in the character of the site. However, it is considered that the site could be better designed to allow greater landscaping and areas of open space within the centre to provide reference to the site’s original open and green character and it’s landscape setting. Indeed, the development is characterised by large houses in large plots in a sprawling suburban estate that is not distinctive and does not take the opportunities for high quality design presented by the site and it’s setting, instead deploying an ‘anywhere’ design.

2.20 To conclude, it is my opinion that the site has a particular set of characteristics relating to its green and open character and infrastructure. It is concluded that the development will lead to the loss of a number of these features, notably the loss of trees and hedgerow and further fails to adequately integrate and retain intrinsic green features into its design both at its edges and centrally within the site. In that respect it cannot be said that the development adequately reflects or incorporates the intrinsic green character of the site and so is contrary to paragraph 127 of the NPPF which sets out criteria integral to good design. Indeed there is little to differentiate the proposed development from countless other housing developments in more suburban settings across the City, notwithstanding the opportunities offered by this particular site by the prevailing green character of the site and its surrounds, and the guidance offered through the Planning Brief. The failure to comply with the Planning Brief in the ways identifies would establish a set of principles for the development of sites C and D going forward which would undermine the successful development of these sites when viewed individually and as a whole. The scheme is contrary to UDP Policy H15, Core Strategy policy CS74, Guidelines G1, G2 and G3 of the Planning Brief and paragraph 127 of the NPPF.

2.21 The amended scheme does marginally improve the balance between green infrastructure and built form and so reduces the harm to the character of the area compared to the unamended scheme. However, there remain a number of issues which have not been addressed and so it is concluded that the proposal remains harmful to the character of the area.

2.22 In terms of the planning balance, the benefits of the scheme as identified in Section 7 of my Proof of Evidence remain, however these do not outweigh the harm to the character of the area.

1. **Density**

3.1 Paragraph 3.20 of Mr Walshaw’s Proof seeks to justify the density of the development on the basis on the density of adjacent developments and this therefore being the area’s prevailing character. Similarly, Mr Bolton’s Proof at 8.33 suggests that an appropriate density is akin to the neighbouring development at Woodland Heights. The site is visually disconnected from all the examples given in Mr Walshaw’s Proof with the exception of the Woodland Heights development. It is held that this standard sprawling housing estate of limited design merit should not be used as a justification to allow a similar type of development. Notwithstanding this, paragraph 123 of the Framework is clear that developments should seek an uplift in the average density.

3.2 Paragraphs 5.8, 5.27, 5.28 and 5.36 of Mr Walshaw’s Proof detail how the low density has in part been driven by the need to provide wider plots with wide spaces in between. It is suggested that this is in part required to provide a soft edge to the north of the site and also to mitigate the impact of retaining walls up to 3 metres high. Whilst it is acknowledged that retaining walls of various heights are required across the site, the examples referenced in paragraph 6.31 referring to section L-L is the most extreme example of a retaining structure. Indeed, other sections including J-J, G-G, H-H, M-M, N-N and O-O, indicate that retaining structures are on the whole much lower. As such it is held this argument cannot be used to justify the low density. It is my view that a more compact and efficient design could be achieved which accommodates the topography of the site, provides adequate amenity and increases density while also allowing for increased landscaping through the developed area.

3.3 Mr Walshaw’s Proof states at 5.50 that an increase in density would require increases in building heights and the use of apartments which would be out of context with the character of the area. He further states at 5.50 that this accommodation would fail to deliver family housing and goes on to state at 6.20 that greater density would mean moving away from family housing. It is my view that increased density whether that be from increased height in the less sensitive parts of the site or through incorporating more semi-detached dwellings or terraces and smaller family units would in no way preclude the provision of family housing. There is absolutely no reason why such accommodation would not provide satisfactory family housing. Indeed, such measure would enhance the density of the site and still protect the characteristic green areas at the edges of the site.

3.4 Further there is a conflict in Mr Walshaw’s Proof as he states that increased density and urbanism would not accord with the green or built form character. However, he also notes that the site is characterised by an urban centre with green space at its edges. It is difficult to comprehend how increasing density within the site would be harmful to the retention of green spaces at it’s edges.

3.5 The density plan in Appendix 23 of Mr Walshaw’s Proof splits the site into two areas for which density has been calculated. It is considered that this is somewhat misleading as the density of the southern part of the site is increased through the more dense pockets of development such as that adjacent to the medical centre. If an increased density can be achieved in this pocket, there is no reason why similar densities couldn’t be achieved elsewhere within the site. The intention of creating different character areas across the site through densities different densities is noted. However, it is considered that if the density of the dense pocket of affordable housing were removed from calculation that the middle part of the site would still represent a very low density of development. Such density is driven by the choice of house types, predominantly large houses in large plots.

3.6 Mr Walshaw’s Proof refers to a method of density calculation in line with PPS3 Annex B (paragraph 6.23), if this method were to be employed, incidental open space, landscaping and children’s play areas should be included in the calculation and these have all been excluded. I consider that such calculation of density would indeed reduce both the Councils and the appellants density calculation significantly. Paragraph 6.26 goes on to state that the difference in the Council’s and Appellants density calculations results from the inclusion or exclusion of the green space to the woodland in the north of the site. This is misleading, the difference relates to whether to include only the regraded parts of this area within the density calculation.

3.7 Paragraph 6.28 of Mr Walshaw’s Proof refers to paragraph 123 (c) of the Framework and states that this part of the Framework allows exceptions to density where it would relate to living standards. I believe that this is taken out of context. Paragraph 123(c) seeks to ensure that efficient use of land is made but that flexibility is taken in relation to applying policies for daylight and sunlight where they would otherwise inhibit making efficient use of a site. The policy effectively encourages high density development and allows flexibility on applying policies for daylight and sunlight in order to prevent low density development. Notwithstanding the policy interpretation point, there is no evidence to suggest that development at a higher density would fail to provide acceptable living standards.

3.8 Both Mr Walshaw’s Proof and Mr Bolton’s Proofs refer to the requirement for family housing and seek to use this as a justification for low density. The requirement for family housing is not disputed, however there is no reason that an alternative form of development that provides varied house types and increased density could not provide family housing. Further whilst paragraph 5.12 of the Planning Brief does identify the requirement for family housing, it states that this should be the dominant form of housing. Dominant does not mean that all housing should be family housing and evidence in my Proof (6.47) indicates a demand for different housing types. The provision of a more varied offer of housing would aid in the creation of a balanced community.

1. **Affordable Housing**

4.1 In section 10.1 Mr Bolton states that there is no harm arising from the affordable housing provision.However, the repositioning of the affordable housing as part of the appeal process is a clear indication that the appellant recognises that the original positioning did lead to inadequate integration and the revised layout improves this but does not entirely address it.

4.2 Mr Bolton suggests at 10.17 that the fact that the affordable housing is to be acquired by the Council as operators is an indication of acceptance of the design of the housing. It is held that this is a separate entity of the Council and does not infer acceptance by the Planning Authority of design nor does it overcome the fact that the design of the affordable housing does not comply with GAH5

**5.0 Policy and Other Matters**

5.1 In section 3.7 – 3.9 of Mr Bolton’s Proof he indicates that the draft plans and Masterplan produced by Avant as part of the bid for the site are an indication of acceptance of the design of scheme and compliance with the Brief. It is highlighted that the sale of the site was undertaken by the Council as landowner operating independently of the Planning system. In pursuit of the sale of the land the Council as landowner would have different aims and objectives to the Council as the Local Planning Authority. As such it is not considered that the sale of the land was an indication of acceptance of the scheme.

5.2 Nevertheless and notwithstanding the opinion expressed above, it is clear that the Urban Design Comments given in relation to Avant’s bid (CD4.10.22) express concerns over the design, summarising that ‘The scheme has some key elements that require attention. Further details design development is necessary in order to address these elements and achieve a satisfactory scheme’.

5.3 In section 7.16 – 7.18 of Mr Bolton’s Proof of Evidence he states that Policy H13 is a saved policy but that the commentary to the policy is not saved as part of the order and therefore carries no weight. He then goes on to make the case that as the supporting text is not saved then the requirement for the policy to be put into practice through Planning Briefs carries no weight.

5.4 It stands to reason that if H13 is a saved policy then this includes all aspects of the policy including the commentary. Notwithstanding this the Planning Brief is an up to date document, which has been consulted on and adopted by the Council. This document carries significant weight in assessing and determining an application for the site. It stands to reason the Planning Brief should be offered significant weight in the application of Policy H13.

5.5 Notwithstanding the above, both Mr Bolton’s and Mr Walshaw’s Proofs refer to the Planning Brief and attempt to demonstrate how the development complies with the Brief. This demonstrates that they understand that the Brief is relevant and carries significant weight.

5.6 Paragraphs 10.9 to 10.12 of Mr Bolton’s Proof suggest that the Planning Obligations Supplementary Planning Document cannot be held to form part of the Development Plan despite CS40 referring to the policy being supported by an SPD. Whilst it is noted that SPD’s do not form part of the Development Plan it is held that significant weight can be given to this document as it is a up to date document which has undergone public consultation and adoption by the Council. It stands to reason that given this has significant weight that any development which is contrary to the SPD is by virtue also contrary to the relevant Development Plan.

5.7 Mr Bolton’s Proof concludes at 13.72 that there is not material conflict with the most important policies for the determination of the appeal and that permission should be granted in accordance with paragraph 11c of the Framework. This conclusion is clearly different to my conclusion in Section 8 of my Proof which is that the scheme is contrary to the development plan.

5.8 Mr Bolton goes on to outline the benefits of the scheme in paragraph 13.8 of the Proof. I have acknowledged the benefits of the scheme is section 7 of my Proof. However there is a clear difference between mine and Mr Bolton’s approach in that I consider the alternative of an amended development on the site which overcomes the reasons for refusal whereas Mr Bolton considers simply the case of development in the form shown in the current scheme versus no development. It is my opinion that the benefits of development of the site could be derived from a more appropriately designed scheme which overcomes the harm identified in my Proof of Evidence.

**6.0 Conclusion**

6.1 I have now had the opportunity to fully consider the amended plans submitted in relation to the appeal scheme. I find that these amendments do offer some improvements to the scheme, namely in the form of retention of the informal footpath link to the north of the site, removal of two dwellings from incursion into the buffer zone; and retention of Category B trees in G11, G12 and part of G9a. However, the design of the scheme still fails to adequately integrate the intrinsic green character of the site by virtue of the loss of trees within the buffer zone to the north of the site and the loss of the hedgerow to the south west boundary; failure to create soft green edges and integrate woodland into the design of the scheme to the south and west of the site and incursion of built form into the buffer zone. All other points within my original Proof of Evidence remain valid

6.2 The rebuttal contained herein does not confirm acceptance of other points not addressed. Having read the Proofs of Evidence submitted in support of the Appellants case I maintain my opinion that the development scheme is in breach of relevant development plan policies which attract full weight and therefore create a strong presumption against the development. The benefits do not justify a departure from the plan. As such in accordance with section 38(6) it is concluded that the development should be refused, and the appeal upheld.