

Statement of Case on behalf of the Local Planning Authority

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: 2nd November 2020

1.0 INTRODUCTION

1.1 This Statement of Case has been prepared by Sarah Hull, Principal Planning Officer, Sheffield City Council. The statement relates to the refusal of planning permission for 74 dwellings through planning application reference 19/03143/FUL

1.2 This appeal is made by Avant Homes Central (‘the appellant’) against the decision of Sheffield City Council (‘the Council’) to refuse planning permission for the erection of 74 dwellings, formation of access road, associated landscaping works, open space works and flood storage works.

1.3 The application was refused by notice dated 5th June for the following reason:

*“This standalone proposal relating to the site known as ‘Owlthorpe 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 integrated 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.”*

2.0 SITE DESCRIPTION

2.1 The description of the site will be agreed with the appellant within the Statement of Common Ground. Suffice to say that the site comprises an area of 3.86 hectares within the Owlthorpe Area to the south east of the City Centre. The site comprises regenerating woodland and scrub to the south side of the Ochre Dyke Valley. The site slopes down from south to north east and includes two smaller detached areas of land proposed to form a surface water detention pond and a play area.

2.2 The site is bounded by similar open regenerating woodland and scrub to the east; mature woodland and grassland areas designated as Local Wildlife Sites (LWS) to the north and west; and a housing estate to the south.

3.0 RELEVANT PLANNING HISTORY

3.1 Relevant planning history will be agreed in the statement of common ground.

4.0 RELEVANT LOCAL AND NATIONAL POLICIES

4.1 The relevant Development Plan policies which will be referred to in support of the Council’s case are detailed below:

Unitary Development Plan Policies

* Policy H13 – Housing Sites
* Policy H14 – Conditions on Development in Housing Areas
* Policy H15 – Design of New Housing Developments
* Policy GE15 – Trees and Woodland

Core Strategy Policies

* Policy CS26 – Efficient Use of Housing Land and Accessibility
* Policy CS40 – Affordable Housing
* Policy CS74 – Design Principles

Planning Brief

* Housing Sites (C, D, E) Moorthorpe Way, Owlthorpe Planning and Design Brief.

4.2 The National Planning Policy Framework is a material consideration. The following sections are particularly important in relation to the consideration of this development:

- Paragraph 8 Achieving Sustainable Development

- Paragraphs 122 and 123 Achieving Appropriate Densities

- Paragraph 127 Achieving Well Designed Places

4.3 The National Planning Policy Guidance (PPG) states that ‘*The information that the local planning authority must provide on their decision notices is set out in article 35 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015. This includes the requirement, where planning permission is refused, to state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan that are relevant to the decision’*.

4.4 The Council acknowledges that not all the policies above and referred to in section 5 below are cited in the reason for refusal. Nevertheless, no new reasons for refusal have been introduced and the additional policies are relevant to the existing reason for refusal, and its four limbs, as explained above. In short, the application of the housing policies HE13-15 is part of the assessment of the principle and detail of the submitted application and these policies inform the Planning and Design Brief which is relied upon in the reason for refusal. The green infrastructure and design policies are relevant to the assessment of whether the balance between the proposed built development and green infrastructure/open space has been acceptably struck by the appeal proposals – with the reason for refusal clearly finding that it has not. The issues raised largely arise in any event under NPPF paragraph 127 which is cited in the reason for refusal.

1. AMPLIFICATION OF THE COUNCILS CASE

5.1 The Council and the appellant are in ongoing discussion in relation to agreeing a statement of common ground.

5.2 The application was refused for one reason, there are however 4 strands to this as identified below:

(a) The proposal does not form part of a comprehensive development of the site;

(b) The development fails to respond to the green and open character of the site;

(c) The scheme does not make efficient use of land

(d) The proposal does not satisfactorily integrate affordable housing.

Each of these strands will be discussed in further detail below.

**Comprehensive Redevelopment of the Site**

5.3 Policy H13 ‘Housing Sites’ of the UDP identifies a number of housing sites across the City and details the uses that will be permitted on these sites. The application site is identified as one of the Owlthorpe Sites in Policy H13. The Policy identifies Housing as the preferred use and details that the policy will be put into practice by ‘providing appropriate advice to developers, which could include supplementary planning guidance or planning briefs’.

5.4 The design brief ‘Housing Sites (C,D,E), Moorthorpe Way, Owlthorpe’ supports the aims of developing the site for housing purposes in accordance with UDP Policy H13. Paragraph 3.2.6 of the Design Brief states that ‘The sites need to be considered as a whole to ensure comprehensive redevelopment. Due to their total size, it is likely that development will be phased. Careful consideration is required regarding the delivery of infrastructure such as utilities, play facilities and drainage’.

5.5 The Local Authority will argue that compliance with the Design Brief is the mechanism by which it can be ensured that the sites are comprehensively redeveloped. A comprehensive approach provides the beneficial opportunity to balance development and necessary infrastructure including importantly green infrastructure across the sites while making effective use of land overall. This was the rationale behind and the approach taken within the brief. The appeal scheme fails to comply with the design brief for various reasons as set out in the following paragraphs. This results in material harm and compromises the ability to successfully comprehensively redevelop the site.

**Green Infrastructure and Character**

5.6 The site is greenfield characterised by regenerating woodland and scrub. It is seen within the context of sites C and D which are of similar character. To the north and east is mature woodland and grassland areas which are designated Local Wildlife Sites. The development will have an urbanising effect of the hillside which is currently green open space and as such will significantly change its character. Whilst the principle of residential development is accepted, the Council will argue that the development fails sufficiently to respect and retain the intrinsic green and open character of the site in accordance with UDP Policy H14, Core Strategy Policy CS74(a), Paragraph 127 of the NPPF and paragraphs G1 and G2 of the design brief.

5.7 It is acknowledged that of the policies detailed in paragraph 5.5 only paragraph 127 of the NPPF was included specifically in the reason for refusal. Nevertheless, the other policies referenced are directly related to design and therefore intrinsically linked to paragraph 127. The local and national policies are strongly aligned and therefore significant weight can be given to the local policies in this instance.

5.8 The development involves the loss of Category B trees along the western and northern boundaries of the site, both of which adjoin the Local Wildlife Sites. The scheme will also lead to the loss of a hedge to the southern boundary. The scheme does not replace all the trees lost and will result in the loss of some mature woodland. The Council will contend that the loss of the trees will have a harmful impact on the landscape value and the green character and infrastructure of the site. In this regard the development fails to preserve and enhance the intrinsic green character and infrastructure of the site as set out in Paragraph 127 of the NPPF, UDP Policies GE15 and H14, Core Strategy Policy CS74 and paragraphs G1 and G2 of the Design Brief.

5.9 The development fails to retain the footpath link to the north of the site, whilst this in not a public footpath it is a clear desire line and well used link. The route links to the adjacent Local Wildlife Site and forms part of the green infrastructure of the site. The layout of the scheme indicates a footpath link through the site from east to west, however this is along estate roads and fails to reflect the character of the existing green linkages through the site. This is contrary to Paragraph 127 of the NPPF, UDP Policies H14 and H15, Core Strategy Policy CS74 and Paragraph G3 of the Design Brief which states that ‘The development must contribute to the success of the green infrastructure in this area to enable more sustainable development and lifestyles.

5.10 The Council will argue that the development fails to provide an adequate landscape buffer between the wildlife site to the north of the site and the new development as a result of re-grading works, tree/landscape removal and the development or road and parking areas in the buffer zone. The buffer zone should be free of development and the regrading and loss of trees will be harmful to it’s function. The proposal will be harmful to the green character and infrastructure of the development, contrary to Paragraph 127 of the NPPF, UDP Policy H14 (f) and the design brief.

5.11 The Local Planning Authority will seek to demonstrate that the failure to adequately incorporate the intrinsic green and open character of the site into the development results in a failure to provide sustainable development. Regard is had specifically to the social and environmental objectives of sustainable development as set out in paragraph 8 of the NPPF.

**Density**

5.12 The Council will demonstrate that the density of the development falls below that set out in Core Strategy Policy CS26. As such the development fails to make efficient use of the land and is contrary to Paragraphs 122 and 123 of the NPPF.

5.13 A denser form of development in parts of the site by way of an altered layout and inclusion of a greater variety of house types coupled with retention of landscape features, trees and footpath links would have created a more sustainable form of development. Furthermore, this would have better retained the green character of the site. Overall it is considered that a better balance between built from and retention of the green infrastructure could have been struck which would also have resulted in a more efficient use of land. The development fails to comply with the requirements of Paragraph 127 (e) of the NPPF.

5.14 The Council consider that a more comprehensive consideration of design across the three sites would have allowed an increased density and a more efficient use of land. Instead, the spread of development on site E is too broad eroding the prevailing green character, while at the same time providing low-density housing. The land should be used more efficiently both in terms of the delivery of housing but also the retention and promotion of green infrastructure and open space.

5.15 The Council will contend that the inefficient use of land is contrary to sustainable development as set out in paragraph 8 of the NPPF.

**Affordable Housing**

5.16 The Local Planning Authority will contend that the development fails to provide an acceptable and suitable standard of affordable housing. The affordable Housing as shown on the amended layout plan is easily distinguishable from the market housing on the site for a number of reasons including its design, scale, siting, form and parking. The affordable housing provision is contrary to Core Strategy Policy CS40 and Policy GAH5 of the CIL and Planning Obligations Supplementary Planning Document. Furthermore, the lack of an acceptable form of affordable housing is contrary to sustainable development, as set out in paragraph 8 of the NPPF.

**Housing Land Supply**

5.17 The appellant has intimated that that the 5 year housing land supply position may be an area of disagreement. As such and in the absence of more detail in this regard, the Council seek here to make clear their position.

5.18 The Council’s most recent published 5-year Housing Land Supply Monitoring Report (May 2020) demonstrates that it has a deliverable 5 year Housing Land Supply (HLS) of 5.1 years (at a base date of 1. April 2019) which confirms that the Council is able to meet its local housing needs as calculated with respect to the Government’s standard method. Therefore paragraph 11(d) of the NPPF, which states that the most important policies for determining the application are out-of-date where a 5 year HLS cannot be demonstrated, is not applicable. The extent of the Appellant’s disagreement with the Council’s position is not made clear in its statement of case at paragraph 5.7.

5.19 Owlthorpe E (the site) is included within the published 5 year HLS, with a capacity for 72 homes. Inclusion is based on discussion with the Council’s property services team who confirmed that at the base date there was clear evidence that housing completions would begin on site within five years. This evidence included pre-application advice having been sought by the applicant, and the full application 19/03143/FUL subsequently having been received. The principle of housing development being acceptable on the site is a matter of common ground.

5.20 The Council acknowledges that the base date of the most recently published housing land supply (May 2020) has a base date of 1. April 2019. The Council highlighted at the time this was published that we were embarking on an immediate update which would take account of the implications of Covid-19. Updated housing land supply information, using the base date 1. April 2020, will be made available in the latest 5-year Housing Land Supply Monitoring Report by early December 2020. That will take account of new homes granted permission in the period to 31. March 2020 and homes completed during 2019/20. The revised supply will form part of the proof of evidence.

5.21 As to the housing requirement, Sheffield’s local housing need figure, as at 1. April 2020 is 2,131 net new homes per year, based on the Government’s standard method set out in National Planning Guidance[[1]](#footnote-1). The Housing Delivery Test result for Sheffield for 2019 (published February 2020)[[2]](#footnote-2) was 112% and therefore the Council must apply a 5% buffer to the 5-year housing land requirement to ensure choice and competition. The total net 5-year housing requirement for the period 2020/21 to 2024/45 is 11,188 new homes.

**Presumption in favour of Sustainable Development**

5.22 For the reasons given above it is the Council’s position that there are relevant policies in the development plan, and the most important policies for determining the application are not of date. Accordingly, the tilted balance in paragraph 11(d) of the NPPF is not engaged.

5.23 Further, for the reasons given above, the proposal does not accord with an up-to-date development plan.

5.24 The planning balance requires to be struck under section 38(6) of the Planning and Compulsory Purchase Act 2004. The Local Planning Authority will argue that the development does not accord with the development plan as a whole by virtue of the lack of a comprehensive redevelopment; failure to adequately reflect the intrinsic green and open character and infrastructure; and in the detailed design of the affordable housing and low density of the scheme. The principle of the housing redevelopment of the site is not an issue, but the form and extent of development, and the treatment of affordable housing and density, causes conflict with the development plan, and harm, and no material considerations are sufficient in the circumstances of this case to justify the grant of planning permission.

5.25 It is further concluded that the development does not constitute sustainable development.

6.0 SUMMARY AND CONCLUSION

6.1 The appeal scheme conflicts with the development plan when taken as a whole. Accordingly, by virtue of S.38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should be withheld unless material considerations indicate otherwise. The tilted balance in paragraph 11 of the NPPF does not apply. The benefits of the scheme are acknowledged and include the provision of housing and affordable housing on a sustainably located site and the provision of play facilities. However these are outweighed by the negative impacts which include, lack of comprehensive development which is out of character by failing to respond to the existing green and open character, inefficient use of land and poorly integrated affordable housing. The harm is not justified, and a comprehensive approach would deliver the same benefits as anticipated by the development plan and supporting documents. The Local Planning Authority will therefore demonstrate that material considerations do not justify permitting the appeal scheme, otherwise than in accordance with the development plan.

6.2 The Council will accordingly invite the Inspector to recommend that planning permission be withheld and the scheme dismissed.

1. <https://www.gov.uk/guidance/housing-and-economic-development-needs-assessments> paragraph 004 [↑](#footnote-ref-1)
2. <https://www.gov.uk/government/publications/housing-delivery-test-2019-measurement> [↑](#footnote-ref-2)