

**Closing Statement on behalf of Owlthorpe Fields Action Group****1. Introduction**

1.1 In writing my Closing Statement I have not sought to cover points where our case overlaps with the Council's. This means that the main topics I will cover will be the ecological issues, specific points we've raised about comprehensive development, and finally walkability.

**2. OAG's rigorous approach to evidence**

2.1 OAG have mounted a strong campaign to save Owlthorpe Fields, with around 2000 followers on social media. It is to OAG's great credit that they have approached their campaign with rigour, respect and realism. When seeking to demonstrate the richness of the wildlife they were so passionate about protecting, they set out to carefully record their observations using rigorous methods and seeking official verification wherever possible. This has included:

- Submitting species observations, with photographic evidence, to Sheffield & Rotherham Wildlife Trust (SRWT)'s Nature Counts database which is quality-controlled by professional ecologists;
- Measuring, numbering and plotting ancient and veteran trees, carefully following the methodological guidance provided by the Tree Register and submitting this evidence to the Woodland Trust, who have studied their findings and added the trees to the Ancient Tree Inventory;
- When learning that Ochre Dyke Woodland was not in the Ancient Woodland Inventory finding out from Natural England precisely what was required to make an assessment, and taking care to submit accurate information.

2.2 As a result of OAG's rigorous approach, a number of ancient and veteran trees have been added to the Ancient Tree Inventory, and Ochre Dyke has been officially recognised as Ancient Woodland.

2.3 OAG then decided to use their own funds to pay for an additional Preliminary Ecological Assessment, on top of their own recordings. Dr Rivers took a fresh look at all the new data and decided to assess the site against the Local Wildlife Site (LWS) criteria.

It was these assessments that led Dr Rivers to change her view about the site. Previously, as Mr Sagar noted, Dr Rivers wrote objections to the application on behalf of SRWT, which concluded that depending what further surveys and an appropriate Ecological Impact Assessment revealed, conditions *could* lead them to withdraw their objection.

- 2.4 In the light of the new ecological evidence, which shows the site to be eligible for LWS status, Dr Rivers concluded that the only truly appropriate ecological outcome was for there to be no built development, and instead for the sites to be harnessed for their ecological potential. In practice, this could mean the sites becoming beneficiary sites for Biodiversity Net Gain measures, arising from developments elsewhere, or as a candidate for an environmental stewardship scheme for on-going management.
- 2.5 It is very significant, then, that Natural England, Woodland Trust and SRWT have all accepted OAG's ecological and arboricultural evidence, which gives that evidence a high degree of credibility. None of those organisations has anything to gain by not setting very high quality control standards for evidence submitted to them. To the extent that NE and WT may still wish to undertake their own site visits to enable a further layer of verification, they have both accepted the veracity of OAG's data in the meantime, in particular with NE stating that Ochre Dyke should be regarded for planning purposes as Ancient Woodland from the date of their decision.
- 2.6 The story I've just related is, by any measure, a success story for citizen-generated data. That Natural England are content to accept this data, and that the full weight of their standing advice has taken immediate effect for the purposes of this appeal case, is very significant.

### **3. Ancient Woodland**

- 3.1 The NE guidance (CD4.8.19) specifies:
- a buffer zone that is defined as 15m from the ancient woodland boundary as a minimum;
  - root protection areas for ancient and veteran trees defined as at least 15x their stem diameter or 5m beyond their canopy, whichever is the greater.

- 3.2 There is nothing in the guidance to support a substitutable area approach to the buffer zone, in which losses can be incurred in some places and compensated by a larger area of buffer elsewhere.
- 3.3 Furthermore, the guidance identifies “reducing the amount of semi-natural habitats next to ancient woodland” as an indirect impact of development. The scheme’s proposed resolution for this is to replace the naturally-occurring semi-natural habitat with new planting which covers a much smaller area, but has a higher arboricultural quality. Such an approach fails to take account of the considerations presented to the Inquiry by Professor Rotherham, that the existing, naturally regenerating woodland is an ideal habitat for many flora and fauna. It has a significant head-start over any new, replacement habitat, and its overall area must be seen as relevant when it is known that both the size and connectivity of habitats are important to their function. We are therefore not satisfied that the impact on the ancient woodland of reducing the amount of semi-natural habitat adjacent to it has been resolved.
- 3.4 The guidance is clear that water table impacts are an additional consideration beyond that of root protection areas. Under cross-examination it transpired that the Appellant has not adequately demonstrated compliance with the NE standing guidance, because they have relied on desktop assumptions concerning hydrological impacts, instead of undertaking a technical study. Furthermore, whilst accepting the NE designation of ancient woodland that itself relies on OAG evidence, they have not used that same OAG evidence when determining the stem diameters of the trees, and have raised doubts about OAG’s measurements. This is a contradictory position for the Appellant to have taken.
- 3.5 The Inspector should note that, when OAG stated on 11 December 2020 that the Revision B scheme resolved the matter of buffers for the individual trees, this was before we saw evidence from Mr Topping challenging OAG’s measurements, and we were unaware that different stem diameters had been used from the ones we had evidenced.
- 3.6 In fairness to Mr Topping, it may be that the IT failure with the Ancient Tree Inventory has resulted in the two parties not in fact, measuring the same trees. We are not seeking to revisit tree identification, but rather to point out that both parties are hindered by the ATI system being out of action.

- 3.7 However, in light of the disagreement over tree measurements, we no longer have confidence that the Revision B scheme does adequately address the buffer requirements for the ancient and veteran trees, and must withdraw that previous acceptance. Mr Topping suggested that, in practice, this is not a problem due to the buffer being generally larger than the minimum, but we do not have definitive evidence of this.
- 3.8 In any case, as mentioned earlier, NE and WT have made decisions using OAG's citizen generated data, and this is having a direct and immediate effect on the way the trees and woodland are considered in planning terms for the purposes of the appeal scheme.

#### **4. Local Wildlife Sites**

- 4.1 The Appellant's position on UDP Policy GE13 is, in reality, a red herring. Mr Bolton argued in cross-examination that only the Development Plan could give planning status to an LWS, because there is no other mechanism available to a LWS for consultation and scrutiny. But that is not correct: the decision to designate a LWS does not rest with the Planning Authority, but with a multi-disciplinary panel (of which the Planning Authority is a member) that makes its own decisions. Consequently GE13 applies to a designation which, whilst local in scale, is still made independently of the Plan, just as is the national scale decision to designate an Ancient Woodland. And as I explained in my evidence, planning decisions are always made with reference to the up-to-date evidence base, of which the LWS database is a constituent part.
- 4.2 It is necessary to compare and contrast how the matter of ecological assets on the site, and their eligibility for LWS status, have been addressed by the OAG and Appellant respectively.
- 4.3 OAG's approach has been to combine all the available information, both from professional surveys and from local records, to gain the fullest picture of the site's ecology.
- 4.4 This essentially comprised:
- BWB's and Wildscapes' professional surveys, taken as read;

- OAG's records, carefully filtered and quality-controlled to enable a high degree of confidence in their reliability;
  - records from the Sheffield Biological Records Centre, only relying on records that had appeared in multiple years.
- 4.5 It remains OAG's position that the three sites C-D-E should be considered as one for the purposes of ecological considerations. This position is given weight by the PINS letter regarding EIA screening (CD4.10.28) which confirmed that the scheme is Schedule 2 development, meaning that the site area and number of dwellings regarded as relevant are the ones for the three sites as one. Mr. Baker stated under cross-examination that he has no problem that the LWS assessment should cover sites C-D-E together, but suggested that even so, the 3 sites together do not meet with LWS criteria without including data over three years old.
- 4.6 However, this is not the case - after hearing Mr Baker's assertion, Dr Rivers checked the data again and has advised me that, if no amateur records more than 3 years old are used - ie if the Sheffield BRC data are removed - then data from sites C, D and E together *do* still show that the LWS grassland criteria numbers are reached with 43 indicator species of which 8 are strong positive indicator species. This only includes OAG records that have been verified. Although Dr Rivers' summary showing this could not be submitted to the Inquiry due to its timing, the Inspector can verify this himself by extracting the relevant information from the spreadsheets (CD4.8.8/4.8.9 and 4.8.11), should he so wish.
- 4.7 OAG and Dr Rivers have always been totally transparent about the data used for the LWS assessment - providing all the raw data in Excel form to both the LWS panel members and the Inquiry for consideration.
- 4.8 In other words, it is not correct that OAG, SRWT or Wildscapes have relied on a contrived approach to demonstrate the ecological value of the sites, as Mr Baker suggested. They have simply used all the available sources that they consider reliable.
- 4.9 By contrast, one actually has to take a rather reductive approach to discounting the citizen-generated data - despite its quality controls - in order to pare down the species

count, if one is to arrive at the conclusions about LWS eligibility the Appellant has made.

4.10 Such a pared-down approach would not sit comfortably with the CIEEM guidance (CD4.8.20), which is clear that:

- records from records centres can indeed be used to inform planning decisions;
- absence of evidence is not evidence of absence, and strong evidence must be provided to show that a previously observed species has conclusively disappeared.

4.11 That is why Dr Rivers stands by her evidence - and the range of information on which it was based - that the sites are eligible to be LWSs. For that reason she submitted them for consideration by the LWS panel. It is for that panel - not Dr Rivers, Mr Baker or the Council, to reach a decision. The appropriate course of action now is that the panel should allowed to draw its own conclusions.

4.12 We have established during the Inquiry that the only disagreement between Mr Baker and Dr Rivers on LWS eligibility is on the use of citizen-generated data. In this context, it must be remembered that the onus rests with the Appellant to show that there will not be ecological harm. Challenging the veracity of another party's data or its use is not the same as demonstrating the absence of species that have been previously recorded, and consequently the Appellant has failed to demonstrate that there will be no ecological harm.

4.13 In our view, in the event that the site is accepted as LWS before the appeal is determined, UDP GE13 would then be triggered and the proposal would be contrary to it. The possibility that the site becoming a LWS may be imminent should be a material consideration now. If this does not happen then a significant ecological opportunity may be compromised.

## **5. Biodiversity Net Gain**

5.1 In addition to Dr Rivers' evidence, the Inquiry heard about the range of other species that other interested parties have observed, and their concerns for loss of their habitats. Although Mr Baker's evidence to some extent questions the value of the appeal site to

those species, he did seek to reassure those parties, under Cross-examination, that the Ecological Management Plan and BNG Management Plan should help provide those species with adequate habitats.

- 5.2 There also remains the issue of Mr Baker's assertion that the ancient hedgerow H1 is of low ecological value - which interested parties contested - this remains an unresolved cause of concern.
- 5.3 The loss of biodiversity from Site E has now been measured by two professional ecologists, and Mr Baker in his evidence had no problem applying the Wildscapes measurement using the DEFRA 2.0 metric. However, as Dr Rivers explained in her evidence, the Appellant's BNG Management Plan has not actually *measured* the proposed ecological uplift on the adjacent sites using the Metric, to see if they would result in a *measurable* net gain over and above the ecological value of the area to be lost. This is a key consideration under NPPF (170d and 175d). It is still unclear why this approach has not been taken, seeing as the DEFRA metric is now the industry standard, (despite some minor problems that will be resolved with the version 3.0) with CIEEM running training courses on how to use it.
- 5.4 Mr Baker explained his view that the current DEFRA Metric is a blunt instrument, and that the Appellant's proposal to convert BNG contribution into a financial payment is a way to address this. We established in cross-examining Mr Baker that this financial approach has its own major drawback, namely that it is difficult to convert it back into a measurable gain for biodiversity. In other words, you can monitor that the money is being spent, but it is much harder to monitor whether that spending is resulting in the envisaged net biodiversity gain.
- 5.5 This is of particular concern because the area earmarked for grassland management in the BNG Plan overlaps significantly with an area where Sheffield City Council is also receiving Higher Level Stewardship payments for grassland, scrub and hedgerow management until 2023. Mr Baker noted problems with implementing the existing grazing regime. But if the BNG contribution is to be deemed valid then it must be *additional* to the existing management measures and the payments for them. How can this be implemented and monitored if it is, in effect, just a further sum of money being directed to an existing site where existing implementation is problematic? Mr Baker's

response was that this detail would be sorted out later in a revised BNG management plan. At the closing of the Inquiry this matter remains unresolved and it is our view that Biodiversity Net Gain has not been adequately measured or assured.

## **6. Design & Comprehensive Development**

- 6.1 Mr Walshaw set great store by the scheme's treatment of the woodland edge as a benefit of the design. Yet his illustrations do not bear this out, with houses whose arrangement and massing doesn't correspond to the softened sensitive edge he described in his words.
- 6.2 The woodland edge is also promoted by the Appellant as informal open space. We cannot reconcile this with what is actually proposed. To the north of the footpath is the densely planted area that forms the buffer to the ancient woodland and is central to the scheme's Ecological Management Plan. To the south of the footpath is a relatively steep, narrow embankment that is north-facing and will be largely shaded. It is unrealistic and inappropriate to double-count this as both an ecological space and an informal open space that could be used by people for any purpose other than moving along the footpath.
- 6.3 We also raised through my own evidence the point that the proposed children's play area is only overlooked by six of the new dwellings, and will not be overlooked by dwellings from Woodland Heights due to the hedgerow buffer. It is also as yet unknown how many dwellings on site C, if developed, would overlook the play area. Compared to the number of households who should benefit from the provision of children's play, this seems a very low level of surveillance, and our concern about the acceptability of the proposed play area has not been resolved.
- 6.4 It remains the case, therefore, that any provision of good quality informal open space, and the acceptability of the play area, are contingent on the park that it will only be provided if or when site C is developed. This is an important example of why, if development is to take place, the three sites must be considered all together as a comprehensive, phased development.

- 6.5 In cross-examining Mr Walshaw we also looked at the Avant Masterplan for the three sites (CD4.11.1.2, appendix 14). My own evidence described how the appeal scheme puts forward a design that has drifted a long way from what was anticipated for the site in the Planning & Design Brief. What is equally striking, though, is how far the scheme has drifted from Avant's own design principles for the three sites together. In particular, instead of creating a focal point in front of the medical centre that would tie the three phases of development together, what is now offered is simply a row of the principal house types featured elsewhere on the estate - a shop window display, so to speak.
- 6.6 We have no comments on the merits of the Avant masterplan itself, but the extent to which the scheme doesn't even adhere to that is evidence of the scheme's failure to contribute to the proper development of the wider site.
- 6.7 We also note the evidence from Mr Betts MP, and from CPRE, about a proposed dialogue with the developer, the council and community about masterplanning the whole area, and I understand that OAG were also willing to engage in such dialogue. An opportunity to plan the wider site not only comprehensively, but with a degree of consensus, has been missed here. Refusing this scheme is a necessary first step towards realising that opportunity.

## **7. Walkability**

- 7.1 Although the Appellant introduced WYG's 'How far do people walk?' critique of long-established IHT industry guidance on walkability, the industry guidance remains; and it is still the case that a walking distance of 800-1000m is classed as "acceptable" by the IHT. By definition, walking distances over 1km can therefore be regarded as "unacceptable", which we could also interpret to mean that longer distances should be avoided where possible. The greater the range of amenities within "acceptable" distance, the more likely it is that walking will be an attractive modal choice.
- 7.2 This is of course common sense but, as I showed in my evidence, it was also a clear part of the rationale for the Mosborough townships plan and therefore for the allocation of the appeal site for residential development in the first place.

7.3 Mr Addison introduced during his Examination-in-Chief the relative proximity of the Hackenthorpe local centre as evidence that the site is walkable. This was not part of the Appellant's case. It is also at the uppermost end of the acceptable distance, and since hearing Mr Addison introduce this argument, OAG members have expressed concerns to me about the safety of Brook Lane, which forms part of the route to access Hackenthorpe from site E. But that is not really the point. The point is that proper implementation of the township would result in every home being within about 500m of a local centre. The appeal scheme now seeks to rely on the 900m walk, or rather an 1800m round trip, to the next local centre along, to evidence walkability. This is not a credible approach. Private car will be the dominant travel choice for the majority of journeys arising from the appeal scheme - an outcome which is contrary to national and local policy as set out in our evidence.

## 8. Conclusions

8.1 As Mr Sagar has noted, refusing the application requires the Inspector to conclude that, on balance, there would be harm resulting from the development. But it remains the Appellant's responsibility to show there won't be harm.

8.2 The key aspects of harm OAG have identified are:

- harm to the current contribution the site is making to the ecological assets of the area and their connectivity;
- harm to the future ecological potential of the area, by re-setting the clock to zero on a site that has been regenerating for 20 years, and reducing the land area available for further nature recovery, biodiversity net gain, and for the S20 Wildlife Corridor proposals that interested parties have drawn attention to;
- harm to the underpinning concept of the townships plan as a cellular network of highly walkable neighbourhoods;
- harm to the opportunity for a possible alternative outcome for the 3 sites together that more comprehensively integrates built form, communal open space and the ecological network.

8.3 It is striking that, on each of these aspects of harm, instead of providing solutions, and ways to resolve OAG's concerns, the Appellant appears to have set out to challenge the veracity and validity of OAG's evidence. This is very disappointing, especially for

evidence that was generated in good faith by people with genuine concerns, and made fully open to the quality control procedures of authoritative bodies such as Natural England, the Woodland Trust and SRWT.

- 8.4 We are also left with the strong impression that the Appellant has felt it appropriate to pick and choose the guidance and information it uses. This has been the case with ecological data, interpretation of NE ancient woodland guidance, the DEFRA metric for biodiversity net gain, and walkability.
- 8.5 And even on the point that it is plainly wrong to build 72 new homes of which half would be no better-equipped for electric vehicle charging than homes built a century ago, I asked Mr Bolton why it was acceptable not to make 100% provision, and his response was simply that it is not required by current policy. This reductive approach to what development can be expected to achieve leads us to the greatest harm of all: the stifling of possibility. That does a great disservice to what planning is supposed to be about: making better places that are fit for the future.
- 8.6 There is a range of future possibilities for Owlthorpe Fields, but the appeal scheme is the wrong solution. The harm is unresolved, the possibilities unexplored. The proposal would not constitute sustainable development, and we ask the Inspector to dismiss the appeal.

Andrew Wood, 21<sup>st</sup> January 2021