

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
APPEAL BY HALLAM LAND LTD**

**An Appeal Against the refusal of
Outline Planning Permission 17/04673/OUT for up to 85 residential dwellings including
open space (Amended Description) at Land at Junction with Carr Road and Hollin Busk
Lane, Sheffield S36 1GH**

**PINS REFERENCE APP/J4423/W/21/3267168
PLANNING APPLICATION REF: 17/04673/OUT**

**ROLAND BOLTON PROOF OF EVIDENCE:
Planning Proof of Evidence including the Planning Balance**

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CONTENTS	PAGE
1.0 EXPERIENCE AND SCOPE OF EVIDENCE.....	5
2.0 INTRODUCTION	9
3.0 THE APPEAL SITE AND THE SURROUNDING AREA	13
a) Stocksbridge/Deepcar.....	13
b) The Appeal Site	16
4.0 PLANNING HISTORY OF THE SITE.....	17
a) The Sheffield Green Belt Plan 1983.....	17
b) The Unitary Development Plan	19
c) Previous application and appeal	20
d) Applications adjacent to the appeal site	21
e) EIA Screening Request relating to the appeal site	22
5.0 THE APPEAL PROPOSAL	23
6.0 NATIONAL POLICY CONTEXT FOR PLANNING FOR HOUSING	26
7.0 PLAN MAKING AND THE LOCAL RESPONSE TO THE HOUSING CRISIS	28
a) The Unitary Development Plan (CD3.1).....	28
b) The Core Strategy 2009 (CD3.1)	29
c) Citywide Growth Options November 2015 (CD3.11)	29
d) Sheffield City Council Local Development Scheme – 2019-2023 Effective from 20 November 2019 CD3.21)	30
e) The Sheffield Plan Issues and Options September 2020	31
f) Future options for accommodating development.....	33
g) Conclusion on the Councils’ plan making and response to the Housing Crisis.....	33
h) The implications of the lack of progress on development plans in respect of detailed boundaries to policy designations.	34
8.0 THE DELIVERY OF FAMILY AND AFFORDABLE HOUSING	36
i) The Councils Affordable Housing Requirement	37
j) Conclusion on the delivery of family and affordable housing.....	39
9.0 THE APPROACH TO DECISION MAKING IN RESPECT OF THIS APPEAL.....	40
a) Introduction.....	40
b) The basket of most important policies for determining the appeal decision.	40
c) The Approach to Decision Making – The relationship between parts i) and ii) of Paragraph 11 d of the NPPF.....	40
d) The Approach to Decision Making – The out of date nature of development plan policies.	41

i)	Land to the north west of Northmoor View, Brimington, APP/A1015/W/19/3223162 (CD5.34)	42
ii)	Land at Deerlands Road, Wingerworth (APP/R1038/W/17/3192255) (19 th November 2018) (CD5.28)	43
iii)	Hockley House, Hockley Lane, Wingerworth (APP/R1038/W/18/3206187) (30 th January 2019) (CD5.29)	43
iv)	Appeal Ref: APP/R1038/W/20/3251224 Land South East of Williamthorpe Road and West of Tibshelf Road, Holmewood, Derbyshire (CD5.26).....	44
v)	Appeal Ref: APP/Q3115/W/19/3220425 Land to the east of Reading Road, Lower Shiplake (CD5.31)	45
vi)	Appeal Ref: APP/C1570/W/20/3256109 Land off Isabel Drive and Land off Stansted Road, Elsenham, Essex (CD5.32)	45
vii)	Land to the East of Mere Lane, Edenthorpe Doncaster (by the Secretary of State) (APP/F4410/W/17/3169288)(5 th February 2019). CD5.26	46
viii)	59 Shefford Road, Meppershall, Shefford (Appeal Ref: APP/P0240/W/17/3190584) CD5.33	47
e)	Conclusion on how policies may fall to be out of date.	48
f)	The approach to the identification of the basket of most important policies and the “tilted balance”	48
10.0	THE COMPLIANCE, OUT OF DATE NATURE AND WEIGHT OF THE MOST IMPORTANT POLICIES FOR THE DETERMINATION OF THIS APPEAL.....	50
a)	Introduction.....	50
b)	Policy LR5 Development in Open Space Areas – General.....	52
i)	Policy LR5 e)	56
ii)	Policy LR5 i)	57
iii)	Policy LR5 (j)	59
c)	Policy GE4.....	61
iv)	Policy BE15	63
v)	Policy BE19	64
vi)	Policy CS22	65
vii)	Policy CS23	66
viii)	Policy CS24	68
ix)	Policy CS72	69
d)	Conclusion on the compliance, out of date nature and weight of the most important policies	74
x)	Conclusion on the basket of policies	74
11.0	THE CASE ON BEHALF OF THE APPELLANT	75
a)	Introduction.....	75
b)	The public benefits of the appeal proposal.....	75

i)	Five year land supply	75
ii)	The delivery of the new housing requirement as calculated by the Standard Method.	75
iii)	The delivery of family housing.....	76
iv)	Affordable housing.....	76
v)	Open Space.....	77
vi)	Net Biodiversity Gain	78
vii)	Benefits from the Sustainable Urban Drainage	78
viii)	Economic Benefits	78
c)	The effect of the proposed development on the character and appearance of the surrounding area.....	78
d)	Impact on the visual separation of settlements	79
i)	Land to the north west of Northmoor View, Brimington, APP/A1015/W/19/3223162 (CD5.34).....	79
ii)	Land South East of Williamthorpe Road and West of Tibshelf Road, Holmewood, APP/R1038/W/20/3251224 (5.30).....	80
iii)	Land North of Netherhouse Copse, Fleet, (APP/N1730/W/17/3167135) (6 th October 2017) (CD5.35).....	81
iv)	Land West of The Street, Little Clacton (APP/P1560/W/16/3156070) 4th January 2017. (CD5.36).....	81
e)	The effect of the proposed development on the special interest of nearby heritage assets.....	87
i)	Conclusion on paragraphs 11 and 196 of the NPPF	90
f)	New policies introduced by the Council now considered relevant to the determination of the appeal.....	91
ii)	Policy CS47	91
g)	Policy CS63	92
h)	Conclusion of the Appellant’s case	94
12.0	ISSUES RAISED BY OBJECTORS	97
a)	Highways.....	97
b)	Ecology.....	98
c)	Drainage.....	101
d)	Schools.....	102
e)	Dental Services.....	102
f)	Doctors	103
13.0	PLANNING BALANCE AND CONCLUSION	105

1.0 EXPERIENCE AND SCOPE OF EVIDENCE

- 1.1 My name is Roland George Bolton. I have an Honours Degree in Town and Regional Planning and I am a Member of the Royal Town Planning Institute (MRTPI). I am currently a Senior Director of DLP Planning Ltd (DLP) and Head of the Strategic Planning Research Unit (SPRU) which specialises in undertaking bespoke planning research projects, including Objective Assessments of Housing Need and Five-Year Housing Land Supply assessments. DLP Planning Ltd is a national planning consultancy, and I am based in the Sheffield office, working across the whole of England. I have worked in public sector, private practice, and academic roles for over 35 years.
- 1.2 I have a wide range of experience and have held senior positions in both Development management and development plans in local government. I have also represented Councils at both Public Inquiries and Plan Examinations.
- 1.3 As Senior Lecturer in Town Planning at Sheffield Hallam University I provided training for practicing planning professionals including training for Sheffield Staff for the UDP examination. During this time I also acted as a consultant to the current DLP/SPRU practice, providing advice to clients in both the public and private sector on a range of issues including the promotion and delivery of housing at various development plan examinations.
- 1.4 I have been a Director of DLP for over 20 years, setting up the Sheffield office in 1996. During this time, I have advised clients on a wide range of residential developments from the planned expansions of Northampton, Milton Keynes, Luton and York, through to urban projects like Sheffield University Student Village (3,500 student bed spaces) and Commercial projects such as Midway park (40-hectare Strategic Employment Allocation at Junction 16 of the M1).
- 1.5 In 2012, I formed the Strategic Planning Research Unit (SPRU) within DLP to bring together the company's expertise to deliver the strategic planning work for a wide range of clients including local authorities, other public sector bodies, landowners, strategic land promoters as well as national, regional and local housebuilders.
- 1.6 I have had considerable experience of giving evidence as an expert witness at Public Inquiries and attending Local Plan Examinations including inquiries in the City as well as in neighbouring North East Derbyshire and in Chesterfield
- 1.7 I gave evidence at the Sheffield Core Strategy Examination, made submissions to the various consultations on plan making since, I also assisted the Council by participating in the Housing Working Group which looked at sites as part of the Strategic Housing Land Availability

Assessment in the period 2014 to 2018 which included the assessment of potential Green Belt release.

- 1.8 As identified by the Inspector's Case Management Conference summary notes, the main issues are agreed as being:
- a) the effect of the proposed development on the character and appearance of the surrounding area;
 - b) the effect of the proposed development on the special interest of nearby heritage assets.
- 1.9 It was also agreed that the Inquiry should also look at any benefits to be weighed in the planning balance, including housing land supply and any implications of not proceeding with the scheme.
- 1.10 In considering these matters I will outline the appeal proposal, the appeal site and the evolution of the development of the area. I will then go on to set out the national and local policy context for planning for housing, highlighting the Council's woeful track record in making allocations to meet the housing needs of the city; some 23 years without a single new housing allocation.
- 1.11 I will conclude, not only that the Council has failed in terms of development plan policy making to respond to the housing crisis and the Government's policies seeking to alleviate it, but that the ad hoc approach adopted to housing provision to secure a claimed 5 year land supply has resulted in the supply of substantially the wrong dwellings in the wrong location in terms of meeting overall housing needs. This approach, according to the Council themselves results in those seeking family accommodation leaving the city to meet their housing needs in neighbouring areas, and a decreasing stock of affordable housing.
- 1.12 I then go onto identify whether the appeal proposal is compliant with the most important policies for determining this appeal, and then I go on to assess if these policies are up to date and then the weight that may be attributed to any compliance or noncompliance with them. At the end of that section of my evidence, I reach the conclusion that individually and as a whole the "basket" of most important policies is out of date.
- 1.13 I then set out the case on behalf of the Appellant, including why, given the Council's woeful performance in terms of plan making, meeting the need for housing and indeed the need for family and affordable housing cannot be delayed. There is no case for assuming the next development plan, the first plan to make allocations for 23 years, will come forward in a timely manner so as to meet these pressing needs. I will identify the benefits of the development

proceeding, including the issue of the five year land supply, the provision of much needed family housing, the provision of affordable housing and the biodiversity net gain. I will review the evidence of harm on the character and appearance of the surrounding area as assessed by Mr Denney (CD6.18) and on the special interest of nearby heritage assets as assessed by Mr Bourn (CD6.19 Summary and Conclusions paragraphs 5.6 to 5.19). I will specifically set out how the Appellant's evidence is that the appeal proposal results in less than substantial harm to the significance of a heritage asset does not provide a clear reason for refusal and that although I give great weight to the conservation of this heritage asset the balance of benefits outweighs this harm.

- 1.14 I will go onto address additional points raised by objectors to both the application and the appeal which have not formed part of the reason for refusal including, highways, sustainable access, ecology and drainage/flooding as well as capacity of local infrastructure.
- 1.15 Finally, I will set out the planning balance between any conflict with the development plan policies and the potential benefits delivered by the appeal development.
- 1.16 The scope of this Proof of Evidence is as follows:
 - a) Introduction – the appeal proposal and progress of the planning application
 - b) The appeal site and the surrounding area
 - c) The planning history of the site
 - d) The appeal proposal
 - e) National Policy context for planning for housing
 - f) Plan making and the local response to the housing Crisis
 - g) The delivery of family and affordable housing.
 - h) The compliance, out of date nature and weight attributed to the “most important policies” for the determination of this appeal.
 - i) The case on behalf of the appellant
 - j) Issues raised by Objectors.
 - k) Overall planning balance and conclusion
- 1.17 The evidence I have prepared and provided for this appeal (APP/J4423/W/21/3267168) against the refusal of Outline Planning Permission 17/04673/OUT for up to 85 residential dwellings including open space (Amended Description) at land at the junction with Carr Road and Hollin Busk Lane, Sheffield is true and has been prepared and is given in accordance

Appeal Ref APP/J4423/W/21/3267168Insert Job Number
Outline application for up to 85 dwellings on
Land ay Hollin Busk
Roland Bolton Proof of Evidence:
Planning Policy including the Planning Balance.



with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2.0 INTRODUCTION

2.1 The planning application reference 17/04673/OUT (“the Application”) sought outline planning permission, with approval of detail of the access to the site (but not within the site), on land described as land to the north of the junction of Carr Road and Hollin Busk Lane in Deepcar, Sheffield.

2.2 The proposal, as first submitted, sought planning permission for the erection of 93 dwellings. On the basis of addressing comments from officers of the Council, the proposal was amended during the course of the application (January 2020) to up to 85 dwellings and the description of the application was amended accordingly. The application was subject to two rounds of comprehensive consultation, first the initial public consultation from 18th December 2017 and then the consultation on the reduction to 85 dwellings (as described above) from 21st January 2020. The proposal upon which the Council made its decision was described as follows:

“Outline application for up to 85 residential dwellings including open space, Land At Junction With Carr Road Hollin Busk Lane Sheffield S36 1GH”

2.3 The following plans were submitted to support the Application and are those upon which the Council took its decision, however it is recognised that the masterplan is illustrative only and that the parameter plans would need to be conditioned in any consent if they are to be a consideration:

- a) Site Location Plan dated 13.02.17 (CD1.1)
- b) Proposed Access Arrangement onto Carr Road (Ref: 3421 SK001 004 Revision B) published on 29 November 2017 and included within the submitted Transport Assessment dated 27 June 2017 (CD1.2)
- c) Illustrative masterplan December 2019 (CD1.3)
- d) Combined Parameter Plans December 2019 (CD1.4)

2.4 It should be noted that both the parameter plans (CD1.4 a – g) and the illustrative masterplan (CD1.3a) have been updated as part of this appeal process (see emails in CD6.23), so that the plans that would now need to be conditioned in any consent if they are to be a consideration are as follows:

- a) Site Location Plan dated 13.02.17 (CD1.1)
- b) Proposed Access Arrangement onto Carr Road (Ref: 3421 SK001 004 Revision B) published on 29 November 2017 and included within the submitted Transport

Assessment dated 27 June 2017 (CD1.2)

c) Combined Parameter Plans April 2021 (CD1.4 a to g)

2.5 As well as the master plan there is a further contextual plan illustrating how the appeal site sits within the wider context of the settlement which is replicated below:

Figure 1. Aerial showing proposal in context of settlement.



2.6 The application was first placed on the Council Planning Committee (CD1.5) on 4th June 2019 (agenda Item 11a). The planning officer at that time considered that there was not a five year supply of housing land and concluded:

“In the absence of an up to date approved local plan, and the Government’s planning policy guidance seeking to significantly boost the supply of homes, it is considered that substantial weight has to be given to the delivery of housing that the proposed development would achieve.

On balance it is considered that the dis-benefits of the loss of open space and harm to the character and views of open countryside would not significantly and demonstrably outweigh the benefits of the proposal to provide open market housing and affordable housing, public open space and the associated economic, social and environmental benefits of the proposal.”

2.7 I together with my colleagues reviewed the Committee Report and contacted the Council suggesting that the officers should update the report in light of the changes in the 2019 NPPF. The committee decided to defer the consideration of the application at the request of the Planning Manager.

2.8 The application was presented to committee for the second time on 14th July 2020, this time the Council relied upon the Five Year Land Supply position as at 1st April 2019 (CD3.7b) and considered there was a 5.1 year supply of housing land. The Planning Officer concluded (CD1.7) (p97):

“In weighing the benefits against the harms, overall, it is acknowledged that the scheme will provide significant benefits in terms of housing delivery within the context of the Framework requirement to boost the supply of housing and the associated social, economic and environmental benefits that such a development would bring; these benefits are set out above. Although SCC can demonstrate a 5 year supply of deliverable housing sites at the present time and has passed the housing delivery test for two consecutive years, the Framework makes clear that this is a minimum requirement and the overall focus is housing delivery. On this basis, the benefits are significant.

In contrast, it is acknowledged that the proposal will result in the loss of a small area of greenfield land located within the countryside and allocated as Open Space Area; however this can only be given limited weight as the relevant policies (CS72, LR5, CS24 and CS33) go beyond the requirements of the Framework (and in any event, policy LR5 is addressed and there is no conflict). It is also acknowledged that the scheme will result in adverse landscape and visual effects in the immediate vicinity of the site; however these are localised and beyond private residential views, are limited to highway users and limited areas of the adjacent PROW. The site is not located in the Green Belt, it is not a Valued Landscape and landscape and visual impact on the wider area will be very minimal. A link in the green network will be narrowed but will still remain and the Ecology Unit has raised not overall objections to the scheme subject to conditions. Less than significant harm will be caused to the setting of the heritage assets directly to the south east but this is outweighed by the public benefits of the scheme. It is also acknowledged that the site’s location will require future residents to use private motor vehicle as their preferred travel mode, albeit sustainable travel options are available. However this does not fall outside of the acceptability thresholds as set out in the NPPF, as it would not result in unacceptable highway safety impacts or be of a scale that could be viewed as having a residual cumulative impact on the road network that could reasonably be considered as severe.

In reaching a decision on the planning balance exercise, it is concluded that the adverse impacts identified above would not significantly and demonstrably outweigh the delivery of housing and the associated benefits that this would bring in the context of the need to significantly boost the supply of homes.

On this basis, it is concluded that there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole, and in line with Framework paragraph 11dii) planning permission should be granted.”

2.9 It is important to note that at the time of the Committee Report the Planning Manager was applying the “tilted balance” not on the basis of a five year land supply deficit but on the basis that the basket of most important policies were out of date.

2.10 This recommendation was not supported by the Committee and the Application was refused on 14th July 2020, against the recommendation of its officers. The minutes of the meeting (CD1.8) state:

6a.6 RESOLVED: That Application No. 17/04673/OUT - Outline application for up to 85 residential dwellings including open space (Amended Description) at Land At Junction With Carr Road, Hollin Busk Lane, Sheffield, S36 1GH be REFUSED on the grounds of the significant harmful impact on visual amenity both locally and wider, and the substantial harm to a heritage asset. The decision notice to be formulated and the final wording to be delegated to the Chief Planning Officer in consultation with the Co-Chairs of the Planning and Highways Committee.

2.11 It is pertinent to note that the resolution only refers to the harmful impact on the visual amenity and harm to a single heritage asset. The resolution did not refer to harm to landscape, character or harm to the separation of settlements.

2.12 The decision notice (CD1.10) was issued on 20th July 2020 and states.

1 “The Local Planning Authority considers that the proposed development would cause substantial harm to the setting of a collection of Grade II Listed Buildings (Royd Farm) that sit to the east of the application site. The development would not result in substantial public benefits that would outweigh such harm to these designated heritage assets. As such the proposed development is considered to be contrary to Paragraphs 194-195 of the National Planning Policy Framework and Policies BE15, BE19 and LR5(e) of Sheffield's adopted Unitary Development Plan.

2 The Local Planning Authority considers that the proposed development would result in unreasonable harm to the established landscape and to visual amenity at both local and wider levels, creating unacceptable impacts on the character of the area and the intrinsic character and beauty of the countryside, while also undermining the role of the site in visually separating established settlements. The resulting adverse impacts would significantly and demonstrably outweigh any benefits the scheme delivers. As such the proposal is considered to be contrary to Paragraphs 127(c) & 170(b) of the National Planning Policy Framework, Policies GE4 & LR5(i&j) within the adopted Sheffield Unitary Development Plan and Policies CS23, CS24 & CS72 within the adopted Sheffield Development Framework Core Strategy.”

2.13 The Appellant submitted an appeal against the decision of the Council pursuant to section 78 of the Town and Country Planning Act 1990 (“the Appeal”) on 18th January 2021. The appeal was validated on 29th January 2021.

3.0 THE APPEAL SITE AND THE SURROUNDING AREA

a) Stocksbridge/Deepcar

- 3.1 The urban area of Stocksbridge/Deepcar, is described by the Core Strategy policy CS23 as one of the two suitable and sustainable locations for future development.
- 3.2 Mr Bourn describes the evolution of the present urban area in the “Evolution of the Site and the area” in section 4 of his evidence (CD6.19 paragraphs 4.12 to 4.19). This describes the growth of mining and then the steel industry in the area, with local farms being leased out for mining purposes. The map regression included in Mr Bourn’s Appendix 1 (CD6.19) illustrates how after WWII the residential areas of Stocksbridge and Deepcar expanded rapidly, ultimately resulting in Royd being subsumed into Deepcar in the 1970s, which in turn has been subsumed into Stocksbridge (Appendix 1 Figs 12-20).
- 3.3 It is noted that the first residential development in proximity to the appeal site occurred in between 1938 and 1948 (CD6.19 Mr Bourn Appendix 1 Figure 9) with the development of Coultas Avenue. Between 1955 and 1959 (CD6.19 Mr Bourn Appendix 1 Figures 11 and 12). Further development had occurred to the north east of the appeal site and opposite along Carr Road. At the same time development was occurring to the south of the appeal site at Royd Lane and north of the appeal site with the expansion of Haywood southwards to join the existing properties on Broomfield Lane.
- 3.4 By 1981 (CD6.19 Mr Bourn Appendix 1 Figure 15) development had occurred along Carr Road to its junction with Royd Road including the provision of the school just to the north east of the appeal site.
- 3.5 By 1993 (CD6.19 Mr Bourn Appendix 1 Figure 17), the area being Carr Road, Nook Close, had been developed.
- 3.6 As well as development moving southwards the series of plans on the next two pages show how the linear development of Deepcar, Haywood, and Stocksbridge had resulted in a continuous linear settlement by 1945 and at the same time the area had started developing southwards with development such as the Garden Village, and then by 1961 the areas of Spink Hall and Haywood. The infilling of the area behind the linear development on Carr Road and development of the area south of that occurred in the period up to 1981.
- 3.7 This development of this linear urban area southwards has resulted in the appeal site being immediately on the western boundary of a large residential area which continues around the north and north west, beyond Fox Glen and Clough Dike and to the East.

Figure 2. One Inch 1885 - 1900 Outline



Figure 3. OS 1:25,900 (Outline) 1945 - 65



Figure 4. OS One Inch 7th Series 1955 - 61



Figure 5. Google Maps 2020



b) The Appeal Site

- 3.8 The appeal site is located to the north of the junction of Carr Road and Hollin Busk Lane in Deepcar, Sheffield. The site is located on the southern edge of the built up area. A plan of the site can be found at CD1.1.
- 3.9 The site covers an area of some 6.5ha of private agricultural land.
- 3.10 Agricultural fields are located to the west of the application site and along part of the north western boundary. Fox Glen, an Area of Natural History Interest (ANHI) and Local Wildlife Site (LWS) runs along the remainder of the north western boundary, this contains Clough Dike and has a housing area directly beyond.
- 3.11 To the northeast, the site adjoins dwellings and their rear gardens on Carr Road. To the east and south east of the site is an extensive housing area.
- 3.12 A cluster of properties and a small field are also located along the eastern boundary between the site and Carr Road. Some of these properties are Grade II Listed (Royd Farmhouse and barn buildings).
- 3.13 To the south of the site is Hollin Busk Lane with Green Belt beyond. The site itself is not in the Green Belt. The south eastern corner of the site adjoins the junction of Hollin Busk Lane, Carr Road, Royd Lane and Cockshot Lane.
- 3.14 The site is located at Deepcar, within Stocksbridge parish. Deepcar is approximately 9.9 miles from Sheffield City Centre.
- 3.15 There are a range of shops and facilities within 900m of the site, with additional facilities accessible within 1.5 miles of the site.
- 3.16 The site is made up of private agricultural fields used for grazing. There is no public access and there are no footpaths across the site. There is a shallow gradient across the site, and it generally falls from the high point at the south to the north of the site.
- 3.17 The site is allocated as part of an Open Space Area on the Sheffield Unitary Development Plan Proposals Maps dated 1998 (CD3.5). It is important to note that this designation is not the same as open space as defined by the NPPF and applied through paragraphs 96-97. It is undeveloped land with no public access that performs no "Open Space" function. The site forms the eastern part of a larger area of land with the Open Space Area notation, which extends to the west and north west. The area adjacent to the eastern edge of the site is an established housing area. An established housing area also exists beyond the north western edge of the site, beyond Fox Glen.

4.0 PLANNING HISTORY OF THE SITE

4.1 The planning history of the appeal site is as set out below.

a) The Sheffield Green Belt Plan 1983

4.2 The appeal site was part of a larger area that was excluded from the Green Belt in the 1983 Green Belt Plan as shown in the figure below:

Figure 6. Extract of the Green Belt Plan



4.3 As part of the examination of the Green Belt Plan the Council rejected an argument for the undeveloped land at Hollins Busk to be included in the Green Belt. A Mr R D Boyd had argued that this land (CD3.18 Extract from Inspectors Report paragraph 512):

- a) was a buffer between Stocksbridge and Deepcar (Paragraph 513) and the two communities were physically distinct and should remain so.
- b) provided views of open countryside for residents who used the enclosing roads for recreation.
- c) had potential for recreation.

4.4 The Council's response was that:

- a) The site was not allocated for development in the Stocksbridge Town Map of 1967 nor was it identified as it included as part of the area of great landscape value (CD3.18 IR Paragraph 520).
- b) In respect of Green Belt the Council state that no change was recommended as part of the 1978 review and that the Stocksbridge District Plan (approved by the Council in 1981) proposed that the site remained outside of the Green Belt **to provide long term flexibility to meet possible future housing needs** and that in any case no development should take place before 1991 (CD3.18 paragraph 521).
- c) The Council highlighted that following objections to the district plan, the Inspector recommended the **possibility of phased release of residential land at Hollin Busk with a view to the allocation of land for some 230 dwellings in the period up to 1991 with the reservation of the centre of the site for public open space**. The Council confirmed that they accepted this recommendation (CD3.18 Paragraph 522).
- d) In light of the above the Council argued for no modification to the Green Belt, clearly recognising the future development potential of the land.
- e) The Council went on to state that the site, taken as a whole does not fulfil an essential Green Belt function as it is **too late to stop the merging of Stocksbridge and Deepcar with their independence in physical terms having already been broken**. Furthermore, the Council state that it is not possible to determine where the division might be – along Bracken Moor as Suggested by Mr Boyd or along Fox Glen. The **Council stated that the value of these breaks could be retained without the whole site being in the Green Belt**.

4.5 The Inspector (CD3.18 Paragraph 525) took the view that to include the land in the Green Belt, it would have to perform a Green Belt function. It could not be included as Green Belt just because it was not required for development at that time.

4.6 On this basis the Inspector concluded that the Hollin Busk site should not be included in the Green Belt and that no amendment to the plan should be made in relation to this land.

4.7 It is of note, given the reasons for refusal that the Green Belt plan Inspector did not consider that the area that remained outside of the Green Belt performed any Green Belt function in terms of retaining separation between Deepcar and Stocksbridge.

4.8 It should further be noted that the area of Pan Nook Drive to the east of the appeal site was

also excluded from the Green Belt and has since been developed.

b) The Unitary Development Plan

4.9 It is of note that following the past pattern of the evolution of the urban area, as described in the previous section, the Draft UDP (1991) Policy H12 proposed housing allocations at Townend Lane, Coppice Close and Pen Nook. The draft Policy H12, stated that these allocations may only come forward when other sites are not available in Stocksbridge / Middlewood / Wharncliffe Side / Oughtibridge. Given the historic development of the urban area it was an entirely logical approach to take to meeting development needs at that time.

4.10 In the 1991 Draft UDP an area which included the appeal site was identified as a housing allocation. As illustrated by the extract of the proposals map below this allocation was for a much larger area for residential development.

Figure 7. Draft UPD Proposal Map 1991



Figure 8. Appeal proposal in context of Draft UDP allocation



- 4.11 These allocations were not carried forward into the final plan however nor did the plan extend the Green Belt designation over the site.
- 4.12 The UDP made only 2 small changes to the Green Belt where it was considered that exceptional circumstances existed.
- 4.13 As I explain later, the context of the UDP is that it was planning for a declining population and was only planning for 1,060 dpa (CD3.3c Policy H1 page 145) which is just 37% of the Housing Requirement under the current standard method.
- 4.14 Although adopted in 1998 the plan only made allocations to accommodate this low level of housing provision to 2001 and so there was little need to assess additional development opportunities to meet needs beyond that time. Clearly that period is now 20 years ago.

c) Previous application and appeal

- 4.15 There was an outline planning application for residential development on 17.4 hectares of land, which covered all of the open land at Hollin Busk that is currently outside of the Green Belt (Ref No: 89/3037P). All matters were reserved so at 30 dph this could have

accommodated up to 522 dwellings, although I note the draft UDP allocation had elements of open space so this might be an overestimation. Nevertheless, this is a substantially larger site and proposed significantly greater number of dwellings than the current appeal site which is 6.5 hectares, with less than 3 hectares to be developed for housing.

- 4.16 This much larger site did include the current appeal site.
- 4.17 The application was recommended for approval but refused by members CD5.23b).
- 4.18 This appeal decision (CD5.23a) has very limited weight in the determination of the current planning appeal given the age of the decision and because the two proposals are substantially different in terms of the quantum of development (500 or so dwellings compared 85 dwellings) as well as the location of the proposed development. The current appeal proposal is a small discrete area of development nestled against a backdrop of existing development to the east, while the earlier proposal appears to have covered the whole of the area excluded from the Green Belt to the south of Stocksbridge.
- 4.19 The second reason why I consider the appeal has little weight is the very substantial change in terms of national policy, as well as in local circumstances. At the national level there is now a recognised housing crisis, there is no longer such an emphasis on the redevelopment of previously developed land. There is a national housing target of 300,000 dpa and for Sheffield this requires the delivery of almost three times the level of housing that was required at the time of the appeal. It is also noted that the Council have not allocated any additional land for housing since the UDP and it is now two decades since the end of that plan period. The City is no longer planning for a falling population and the policy of exporting unmet housing need (an approach that underpinned the UDP) is no longer considered to be acceptable. Indeed the Council now accepts that this has led to households wishing to access family housing having to move out of the city (CD3.6 Issues and Options 2020 page 26).

d) Applications adjacent to the appeal site

- 4.20 Prior to the construction of Royd Cottage, two applications for two bungalows were submitted on the site of Royd Cottage (96/01440/OUT CD7.20 and 97/00795/OUT CD7.19) both were refused, There were two further applications in 1999 (99/0631/FUL and 99/1313/FUL) and while both were recommended for refusal citing UDP policy LR5, the second application was granted and subsequently Royd Cottage was constructed.
- 4.21 A subsequent application was made for the same site (08/02296/OUT) and again refused for the reason set out in the decision Notice (CD5.22b) relating to H14 and LR5.

- 4.22 The application was refused and the decision on the Written Representation appeal was also to refuse with the inspector noting that the appeal site was located in a predominately residential area on the edge of the settlement (CD5.22a Paragraph 5), but found that the development would result in the subdivision of the curtilage and thereby reduce the amount of open space (paragraph 6). The inspector also found that it would increase the sense of enclosure by extending the built frontage (paragraph 8).
- 4.23 The relevance of this decision for the appeal now being considered is very limited due to the significant changes in both national policy and local circumstances. In the current circumstances it is agreed that Policy LR5 is inconsistent with the NPPF. In addition the need for housing and especially family and affordable housing is acute in Sheffield and as such these are substantial benefits that now need to be weighted into the consideration of the present appeal scheme which were not factors at in 2009. The appeal predates the NPPF and the more balanced approach to planning decisions, recognising the need to boost housing delivery. The appeal proposal is also different in that it provides a different series of benefits than a single dwelling

e) EIA Screening Request relating to the appeal site

- 4.24 An EIA Screening request was made for the erection of 93 dwellings in 2017, related to the appeal application: Ref. No: 17/00142/EIA. It was concluded that the proposed development was not EIA development and therefore, an Environmental Impact Assessment was not required to accompany the planning application (CD1.32). It is also agreed (CD6.7 SoCG) that a Habitats Regulations Assessment is not required, having been screened out by the Council (CD2.25).

5.0 THE APPEAL PROPOSAL

- 5.1 The appeal proposal is an outline application for up to 85 dwellings including the provision of open space and with details of access to the Site (but not within it) for approval. All other matters are reserved for approval at the reserved matters stage.
- 5.2 It is proposed that the site would be accessed via a new vehicular access from Carr Road. The submitted Transport Assessment (CD1.23) shows that this access design is acceptable. This report also demonstrates that any impacts of the development on the local highway network would be acceptable.
- 5.3 Further details of the original scheme are provided within the planning application's Planning Statement (CD1.29), and Design and Access Statement (CD1.10).
- 5.4 The original appeal submission contained two sets of plans which showed how the proposed development could be accommodated on the site. These are CD1.3 Illustrative Master Plan (December 2019) and CD1.4 the Combined Parameters Plans (December 2019). It was intended that the Parameters Plans (save for the more detailed layout related boundary treatments – 06) would be conditioned to guide future reserved matters submissions.
- 5.5 As a result of ongoing work and a refinement of the potential scheme, in particular to address further the objections to the appeal from various parties and the outcome of further investigation, we have looked to adjust the illustrative layout to show how more undeveloped (with houses) land can be achieved around the Listed Buildings.
- 5.6 This has resulted in a revised illustrative layout (CD1.3a).
- 5.7 It has also resulted in revised parameters plans (these are now separate plans rather than a single document and are CD1.4 a to f. Like the original parameters plan they are intended to be conditioned to provide structure to future reserved matters, in a way that is consistent with the revised illustrative layout. There were 7 parameters plans, but as indicated above, one was very detailed and dealt with which boundaries on the layout should be walls and which fences. That information has now been added to the illustrative layout, rather than be on a parameters plan as it is a level of detail for later at the RM stage.
- 5.8 Whilst this revised illustrative layout shows 83 dwellings, because it is an evolution of the earlier illustrative scheme and hence shows almost all of the properties retained in their original location, it remains the case that the site can accommodate up to 85, with a different dwelling mix in due course, subject to reserved matters approval.
- 5.9 The Figure below illustrates how the illustrative master plan has been amended.



5.10 It is the Appellant's intention to refer to the revised illustrative layout as part of the appeal, as indicative of the development as it would emerge at reserved matters stage, if permission was granted and the Appellant is content for the revised six parameters plans to be addressed by way of condition as was intended for the previous parameters plans.

5.11 The difference between the two illustrative layout plans (CD1.3 and CD1.3a) is that three dwellings have been removed from the rear of the Listed Buildings and this area is shown to be able to accommodate a second SUDS area. The original main SUDS area is consequently a little smaller and this has allowed one dwelling to be re-provided in this area. The layout is otherwise the same.

5.12 The SUDs capacity is not diminished and there is an opportunity for further water quality improvement to the eventual outfall as a result of the two SUDs areas. The new area would connect to the original area that would be "downstream" of the new one.

5.13 In summary, the proposal is as follows:

- a) The red line encloses 6.5ha

- b) Development of up to 85 dwellings
- c) Access from Carr Road via a new junction in the site's north eastern corner
- d) 10% affordable housing delivered on site
- e) Approx. 1.62 ha of open space,
- f) Approx. 0.074 ha of Locally Equipped Area for Play (LEAP, included within total open space figure),
- g) Approx. 0.44 ha of SUDs, and
- h) 1.92 ha of restricted access, enhanced grassland managed for biodiversity net gain.

5.14 In summary only 39% of the site will be developed for housing (6.5 ha – 1.62 open space –
– 0.44 SUDS – 1.92 Enhanced grassland = 2.52 ha)

6.0 NATIONAL POLICY CONTEXT FOR PLANNING FOR HOUSING

- 6.1 There is a housing crisis in England. There are widespread housing affordability issues facing Britain at present which is explored in greater depth in section 2 of my proof of evidence on housing and five year land supply. This provides the background to the Government's objective of significantly boosting the supply of homes (CD 4.1 Paragraph 59 of the NPPF). This NPPF paragraph also states that it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.
- 6.2 Paragraph 61 requires policy makers to consider the size, type and tenure of housing needed for different groups in the community and this should be assessed and reflected in planning policies.
- 6.3 The Government's guidance is that housing policies should not only deliver the Government's policy requirement of 300,000 dwellings a year but should also provide a range of housing. This position is strongly reflected in the Government's response to the local housing need proposals in "Changes to the current planning system" on the 16th December 2020 which in the paragraph titled "Rationale for cities and urban centres uplift" states:
- "The Government is also keen to ensure that all areas plan for the right, size, type and tenure of homes, and in particular to ensure that appropriate numbers of family homes come forward, and would encourage these all places, but particular the urban centres, to consider carefully how they deliver the right mix for their communities. Getting this mix right will maximise the beneficial impact that the delivery of more homes can bring."*
- 6.4 The above quote and Paragraphs 8, 59 and 61 of the NPPF highlight the Government's concern goes beyond simply delivering the right number of dwellings but also that there is a range of dwellings to meet different needs.
- 6.5 As I will demonstrate in the next section, the context for this appeal is that the Council have not brought forward allocations to meet the need for family housing and their ad hoc approach to granting permissions for housing has resulted in recent past provision and future supply being largely restricted to locations in the City Centre and City Centre West, predominantly for student accommodation and one and two bed apartments. This is in the context where 80% of the demand is for houses rather than apartments. In these circumstances the provision of family housing is a legitimate material consideration for the decision maker capable of attracting significant weight. It is a matter independent of the 5 year housing land supply assessment. Examples of this matter being given weight in decision making include:

- a) APP/P4605/W/18/3192918 (Decision 24 July 2019) Land At Site Of Former North Worcestershire Golf Club Ltd, Hanging Lane, Birmingham B31 5LP (CD5.8 paragraphs 14.106 and 14.107), This states that the provision of family housing particularly in the context of the delay in the delivery of an SUE to meet the housing requirement is attributed **significant weight**).
- b) APP/U4230/W/13/2209607 and APP/U4230/W/17/318072626 (CD5.24 Decision 12 November 2018) land to the north and south of Worsley Road and land at Aviary Field, Broadoak, Worsley, Salford, Greater Manchester - application ref: 13/63157/OUTEIA (as amended); and (ii) land to the south of Worsley Road, Worsley - application ref: 17/69773/OUTEIA (SoS DL paragraph 26 and IR375 and IR378-IR381), in paragraph 26 the Secretary of State (SoS) agrees that the Council is not meeting the needs of the housing market as a whole, and that there are significant deficiencies in the number of larger/aspirational family homes, and wider issues with homelessness and affordability. The SoS, while acknowledging the Council was seeking to address this through the local plan process, agreed with IR381 that at present individual schemes are the only way in which to begin to address such needs. In paragraph 27 the SoS agreed with IR382 that **significant weight** in favour of the appeals in light of their contribution towards meeting the needs for family/aspirational housing and affordable housing.

6.6 In conclusion, the housing crisis continues and the direction of travel of Government Policy is to continue to seek ways to increase the supply of housing and the delivery of housing to address this crisis. It is also requiring planning authorities to seek to meet the needs of the market as a whole and makes reference to the need for family housing. **The provision of family housing can attract significant weight** independently of any Five Year Land Supply argument.

7.0 PLAN MAKING AND THE LOCAL RESPONSE TO THE HOUSING CRISIS

7.1 The Council have made no policy response to the bullet points set out in paragraph 47 of the 2012 Framework (repeated thereafter in subsequent revisions most recently NPPF 2019 paragraph 59), requiring them to significantly boost the supply of housing. The last development plan was the Core Strategy which was adopted in 2009. This Plan made no allocations for housing or other development but relied on a subsequent “Sites and Policies” plan to identify the sites required to deliver the policy objectives.

7.2 Progress on a “Sites and Policies Plan” to implement the Core Strategy was abandoned in December 2013 when the Council determined to produce an entirely new Local Plan. That is now 8 years ago and no such plan has been produced.

7.3 The absence of allocations in development plans since 1998 has meant that the Council’s response to the housing crisis has been no more than laissez-faire. The Council has simply dealt with development management decisions when applications have been made. The outcome of which is set out in Appendix 1, which highlights that delivery has been concentrated both within a very limited location around the City Centre and within two specific housing types these being 1 and 2 bed apartments and Student cluster flats.

a) The Unitary Development Plan (CD3.1)

7.4 The Unitary Development Plan (UDP) was adopted in 1998. The plan period was from 1991 to 2001 and the plan allocated land for 10,700 dwellings to be completed in the period 1991-2001 (10 years) i.e., 1,070 dpa (CD3.3c Page 145 UDP policy H1). This was based upon the Regional Planning Guidance Note (RPG5) 1989 paragraph 12 and appendix (CD3.3c UDP page 145 side bar). The figure took account the 1991 Census results and the mid 1992 based household formation rates for Sheffield.

7.5 The context for the UDP policies was the expectation that the number of people living in Sheffield was expected to **fall** from 529,300 in 1991 to around 523,400 by 2001 **a decrease in population of just over 1%** (CD3.3c UDP page 144). This is **an increase in population of 10.5%** from 529,300 in the UDP for 1991.

7.6 The UDP policies were based upon the need to continue to provide new housing because:

- a) on average each home will be occupied by fewer people than before
- b) some houses and flats are reaching the end of their useful life and need to be replaced
- c) a lot of existing housing does not meet the needs of many groups of people

7.7 The UDP states that the Secretary of State for the Environment regarded the retention of the

extensive area of Green Belt as overriding and limiting the scope for meeting housing demand within the District at that time.

7.8 The evidence and the policy background to the UDP is far out of date. The amount of land it allocated for development is not capable of meeting current needs. As I go on to explain, this means that the detailed policy boundaries are out of date and in need of urgent revision. Unfortunately, the Council has not advanced a plan review and has a woeful track record of bringing forward development plans.

b) The Core Strategy 2009 (CD3.1)

7.9 Policy CS 22 of the Core Strategy (CS) adopted in 2009 states that the housing requirement was 1,025 dpa 2004/05 to 2007/08 (4 years) then 1,425 dpa 2008/09 to 2025/26 (18 years) and an average of 1,353 dpa. This was largely determined by the Regional Spatial Strategy (CS paragraph 8.1)

7.10 This Policy provided the starting point for deciding allocations in the Sites document (CD3.1 Core Strategy Paragraph 8.2) and suggested that these future allocations would only be made to meet the housing requirement to 2020/21 (CS22).

7.11 It is appropriate to note that Policy CS 41 “Creating Mixed Communities” sought to promote mixed communities by encouraging development of housing to meet a range of housing needs including a mix of prices, sizes, types and tenures, including requiring a real mix of housing in various locations, including homes for larger households, especially families.

7.12 Following the Core Strategy, the Council proceeded to produce a “Sites and Policies Plan” however, while a draft plan was produced in 2013 it was subsequently withdrawn in December 2013.

7.13 The housing policies in the Core Strategy are therefore missing the vital supporting allocations and policies to be effective. As explained below, some of the Core Strategy policies, specifically were to be dependent on such allocations coming forward.

c) Citywide Growth Options November 2015 (CD3.11)

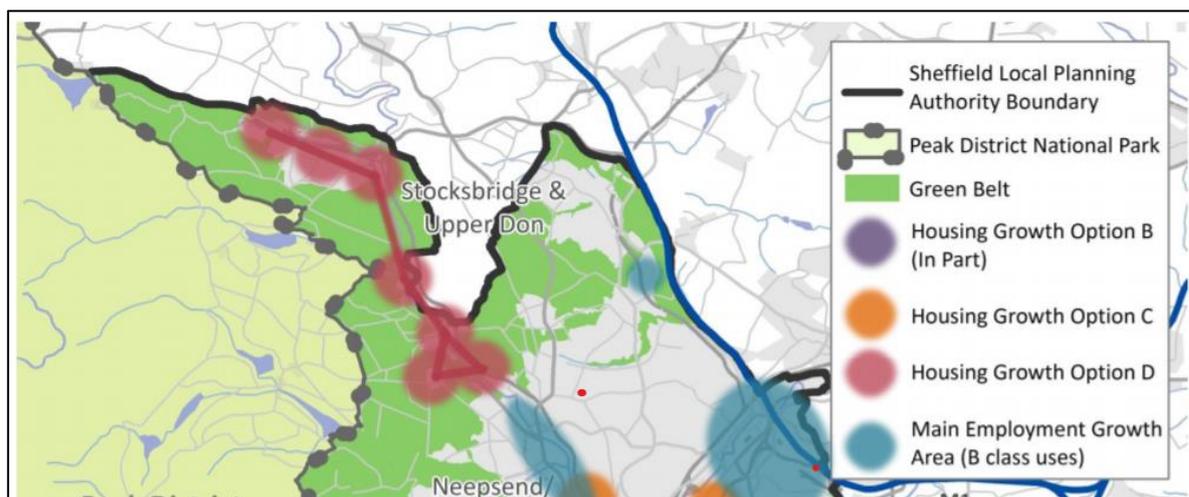
7.14 The Council consulted on the ‘Citywide Options for Growth to 2034’ document in 2015. This sought view on how the Council could plan to meet between 40,000 and 46,000 homes between 2014 and 2034. This contained 5 options for development although as the table 4 on page 70 illustrates, even cumulatively none of these cascading options would deliver the 46,000 homes at the top of the range:

a) Option A: Urban Capacity – this would only deliver 19,300 homes.

- b) Option B: Urban Intensification – this would deliver an additional 12,750 homes and a cumulative total of 32,050 homes.
- c) Option C: Urban Remodelling– this would deliver an additional 4,300 homes and a cumulative total of 36,350 homes.
- d) Option D: Limited number of Larger Urban Extensions into Green Belt– this would deliver an additional 6,100 homes and 42,450 homes.
- e) Option E: Multiple Smaller Green Belt Releases– this would deliver an additional 550 homes and 43,000 homes.

7.15 It is of note that option D identifies some 2,000 dwellings being delivered on sites released from the Green Belt in Stocksbridge and the Upper Don Valley. The extract from Map 5 highlights these general locations.

Figure 9. Extract of City Wide Growth options Map 5 Employment and Housing Growth Options



7.16 While the results of this consultation were published, there was no further progress on plan making until 2019 when the Council published the Local Development Scheme – 2019-2023.

d) Sheffield City Council Local Development Scheme – 2019-2023 Effective from 20 November 2019 CD3.21)

7.17 The timetable set for the production of the Sheffield Plan was for Regulation 18 consultation in July 2020 and a Regulation 19 consultation in July 2021, with a submission to Government in January 2022 and adoption in September 2023.

7.18 What past experience reveals is that consultation on nonspecific options is something this Council can do every five or so years. It is the difficult process of making decisions about actual sites that the Council continually fails to grapple with.

e) The Sheffield Plan Issues and Options September 2020

- 7.19 The emerging plan is at a very early stages and of no weight as policy. It doesn't set out any policies or allocations in any form. However, the consultation states that the Council intend to build around 40,000 new homes over the next 18 years (2,200 dpa) to cater for the growing population and that many of these homes will be affordable homes for people on lower incomes and homes for older people.
- 7.20 In respect of the proposed 2,200 dpa a year, the Issues and Options (CD3.6 page 25) highlights that net completions have been 2,055 dpa over the last 5 years, and that the Councils is not anticipating a big increase in the number of homes built each year. This approach clearly needs to change with the introduction of the Urban Area Uplift as step 4 in the Standard Method through changes to the NPPG in late 2020.
- 7.21 The Issues and Options go on to state (CD3.6 page 25) that delivering 2,200 dpa will be a challenge and acknowledges that much of the recent supply has been student accommodation and the Council is aware there is a need for other types of housing to meet the specific housing needs of different groups within the community, such as families, older people, gypsies and travellers and to create opportunities for self-builders.
- 7.22 In this consultation the Council recognise (CD3.6 page 25) that:
- “Much of the recent supply has been student accommodation and we know that we need other types of housing.”*
- 7.23 Furthermore, the Council Highlight (CD3.6 page 26) that there is already out migration due to the lack of the right type of homes;
- “In particular, there is a trend for people wanting housing suitable for families to move to Rotherham, North East Derbyshire and Barnsley”*
- 7.24 The Issues and Options consultation set out 3 options to deliver the 40,000 homes it aimed to see built by 2038. These are summarised on Table 1 page 48 (CD3.6) which is replicated below:

Figure 10. Overview of options in Issues and Options 2020

	Description of Option	New Central Area homes	New Urban Area homes (outside Central Area)	New Green Belt homes	Total new homes
Option A	High density, vibrant walkable neighbourhoods with a wide choice of homes. Where: The Central Area – in and around the City Centre and at Attercliffe.	20,000 (50%)	20,000 (50%)	0	40,000
Option B	Mid-rise and vibrant central area and some new houses with private gardens in the suburbs. Where: The Central Area and some limited areas on the edge of the City	15,000 (37.5%)	20,000 (50%)	5,000 (12.5%)	40,000
Option C	Less dense central area, more new houses with private gardens in the suburbs Where: the edges of the city including some Green Belt.	10,000 (25%)	20,000 (50%)	10,000 (25%)	40,000

7.25 It is pertinent to note that the Council (CD3.6 page 49) consider that to deliver Option A and deliver higher densities in the central area it would require significant public sector support and investment to enable sites to be developed, potentially requiring the Council to buy land, relocate businesses, improve infrastructure and assemble sites ready for development. While the Council identify the need for public sector funding is likely to be required to remodel former industrial areas (CD3.6 page 58) it identifies no source for such funding. In addition, in respect of the implications of Option A it states (CD3.6 page 58):

“People wanting larger homes might move to other parts of the City Region if there is insufficient supply in Sheffield.”

7.26 In discussing the response to these issues, the consultation (CD3.6 page 57: Option B) acknowledges that:

“Green Belt sites would deliver suburban family housing that we know there is a demand for.”

7.27 The Issues and Options document sets out three spatial options (page 48) for delivering 40,000 dwellings to 2038 (2,200 dpa). It is important to note that 2 of the 3 options require Green Belt release. All three options however require around 20,000 new homes being provided outside the City Centre on land that is not Green Belt.

7.28 There is no detail as to the spatial location for the delivery of these options especially with

regard to potential greenfield development or Green Belt release.

7.29 The impact of the Standard Method after 16th June 2021 will of course increase the housing requirement to 2,923 dpa or 52,614 for the same 18 year plan period to 2038. This increase of 12,614 dwellings suggests that even if the Option A could deliver 40,000 dwellings without Green Belt release, it is highly unlikely that the new requirement could be achieved without at the very least greenfield development and most likely Green Belt release.

f) Future options for accommodating development

7.30 The capacity of all the sites in the 2020 HELLA (CD3.13 Paragraph 5.14) states that the potential supply from sites free of current policy constraints is 17,848 dwellings. Against a 18 year requirement of 52,614 (2,923 x 18) this leaves a great deal of land to be allocated where policy designations will have to be changed.

7.31 While table 19 adds a further 6,200 to the supply to reflect windfall on both large and small sites there would still be a shortfall of 28,566 dwellings (52,614 – 24,048).

7.32 While a relatively crude exercise this clearly demonstrates the difficulty of meeting the Housing requirement without breaching existing policies constraints in the short term and Green Belt boundaries in the medium term.

g) Conclusion on the Councils' plan making and response to the Housing Crisis.

7.33 The Council have a very poor track record in plan making and have made no policy response to the housing crisis. The last housing allocations in a development plan were designated over 23 years ago.

7.34 Local policies regarding housing and in particular housing allocations were based upon dated guidance and evidence, which is only now beginning to be reviewed and revised. More importantly, policies that seek to restrict the provision of housing such as the "Open Space Area" are based on evidence that is not only over 23 years old but on assumptions that have been clearly overtaken by events.

7.35 The present situation is summarised below:

a) 1998 UDP and proposals are based on a housing requirement of 1,070 dpa 1991 to 2001 this is just **37% of the level now required to be accommodated to meet the Standard Method and only ever intended to run to a point in time that passed 20 years ago. The extent of housing allocations also largely determines the extent of land not allocated for housing, including Open Space Areas.**

b) 2009 Core Strategy policies are based upon:

- i) Regional Spatial Strategy
 - ii) Stepped requirement Policy CS 22 of 1,025 dpa 2004/05 to 2007/08 (4 years) then 1,425 dpa 2008/09 to 2025/26 (18 years) and an average of 1,353 dpa. **This is under half (42%) of the requirement under the new Standard Method.**
 - iii) A City Sites and Policy plan which was to contain allocations to meet the housing requirement but has been abandoned.
- c) The Council have not produced a plan that designates new housing allocations since 1998, over 23 years ago.
- d) It is over a decade since the Council have adopted a development plan of any nature.
- e) There have been a number of stalled attempts to produce a development plan with the required allocations, but none have gained political support.
- f) The 5 Year housing land supply monitoring report 2020- 2025 (December 2020) was based on the old standard method requirement including 5% buffer of 2,238 dpa
- g) In the Sheffield Plan Issues and Options 2020 (September) all options require reuse of previously developed sites and options B and C require Green Belt release to accommodate 2,200 dpa and deliver family housing.
- h) The 16th December 2020 NPPG Standard Method Update introduces “Step 4” Urban Area Uplift which increases the housing requirement for decision making by 35% to 2,923 dpa (prior to adding the required Buffer). This is to be calculated using the average annual household increase over a 10 year period starting with the current year (2021) using the 2014 HHP (NPPG Paragraph: 004 Reference ID: 2a-004-20201216). **This new requirement means that there is now virtually no prospect of Option A from the 2020 Issues and Options being able to accommodate the required housing and Green Belt release, let alone use of non-Green Belt land will be needed for allocation.**
- i) If the land that is without current policy constraint, even with windfall and small sites added, will go no more than just over halfway to meeting the future needs of the emerging plan.
- h) The implications of the lack of progress on development plans in respect of detailed boundaries to policy designations.**

7.36 The detailed policy boundaries set in 1998 to meet the housing needs up to 2001 are out of

date in that they have been determined against a much lower housing requirement and against a very different assumptions including a declining population of the city. As I will demonstrate in the next section, the delivery of housing within in the city is occurring in spite of the policy designations on the UDP proposals map rather than because of them. As I highlight below, the Council's unplanned approach to meeting its housing needs has resulted in the delivery of predominantly the wrong type of housing in the wrong locations.

- 7.37 In terms of the appropriateness of the UDP boundaries to accommodate the new standard method requirement, the Council "Issues and Options" from September 2020 (CD3.11 Page 46) suggests 3 Options to meet a much lower housing requirement of 2,200 dpa to 2038 and two of the three options (options B and C) would require Green Belt Release. Even if the 40,000 dwellings could be provided outside of the Green Belt as in option A, by maximising non Green Belt opportunities, the present evidence is that meeting the higher new Standard Method would require Green Belt release as proposed by the Council in options B and C in any event. In order to demonstrate exceptional circumstances (NPPF paragraph 137), all other reasonable options for meeting this identified need are required to be explored first, including of course non Green Belt, greenfield land such as the appeal site.
- 7.38 The review of Green Belt Boundaries of course should only be undertaken through the development plan process (NPPF paragraph 136). The release of suitable non Green Belt sites such as the appeal site can however be addressed ahead of that. As highlighted above, it has been 23 years since the Council have managed to adopt a plan containing housing (or any other allocations). The false starts since the adoption of Core Strategy in 2009 is indicative of a political inertia in plan making for the city, and the publication of the Issues and Options in 2020 is not a significant step given the complete lack of spatial detail with regard to how any of the 3 options might be delivered. In these circumstances any notion of waiting for a plan to address the current needs would be severely mis-founded in my view.

8.0 THE DELIVERY OF FAMILY AND AFFORDABLE HOUSING

8.1 The “Issues and Options” consultation also highlights the consequences of the present laissez faire strategy, which fails to meet the demand for family housing with households who are seeking such accommodation moving out of the city. It goes on to describe Option A (Higher density, concentrated in the central area with some high rise).as being:

“Less good in terms of meeting the needs of some households already in the city (many of whom want houses with gardens)” (CD3.6 Page 57).

8.2 I have already highlighted that the Government’s expectation, as part of the delivery of the “Cities and urban areas uplift” includes the delivery of family homes and that the Government expect Councils to consider carefully how they deliver the right mix for their communities. Getting this mix right will maximise the beneficial impact that the delivery of more homes can bring.

8.3 I set out in Appendix 1 of this Proof that in the last 5 years, new supply has a predominance (74%) of apartments and purpose-built student accommodation, with ‘traditional’ houses making up just 26% of gross completions (Appendix 1 Table 2). Over the last five years, three quarters of all dwellings completed were apartments, maisonettes (43%) or student cluster flats (32%).

8.4 This is against a demand for 80% housing and 20% apartments (Appendix 1 paragraph A1.9 and table 5).

8.5 There is also a locational concentration of completions with 70% of completions occurring within just two of the SHMA Market Areas of City and City Urban West (Appendix 1 Table 3)

8.6 Both the Council’s evidence and our analysis highlight the mismatch between locational and typological needs and supply. Put simply the supply that exists for the next 5 years, as well as the delivery that has taken place, is very largely of the wrong type and in the wrong place.

8.7 This mismatch of market demand is evidenced by both the stagnation of the price of apartments in the City Centre over the last decade (Appendix 1 Fig 1) and the relatively poor performance of apartments in terms of price increases when compared to other dwelling types in the city. The price of terrace properties in particular, is now higher than apartments which was not the case a decade ago (Appendix 1 Fig 2).

8.8 In terms of the existing stock, it is notable that Sheffield at 22%, already has the highest proportion of apartment accommodation within Yorkshire although only marginally higher than Leeds (table 7) and as such the suggestion that there remains significant unmet demand for apartments within the city is not supported by reference to other local markets.

- 8.9 It is further noted that “churn” or general turnover of the existing stock is not allowing families to access family homes. As the Issues and Options consultation notes, households seeking family housing are leaving the city. This is because the existing stock already accommodates households and most households and especially owner occupiers tend to trade up the size of their dwellings as the household ages and grows with the addition of children. Often this is driven both by the desire for greater space for children but also by increased household wealth. Households, however will continue to occupy the family home even when children leave unless they are “pushed” to make a move, due usually to health issues, or there is a “pull” factor, such as in the offer of more suitable age appropriate accommodation (often referred to as right sizing”).
- 8.10 For either push or pull influences to be effective in the freeing up of family homes there has to be suitable alternative for rightsizing households. The present supply of City Centre apartments are neither in an attractive location, nor do they offer the appropriate accommodation to encourage “rightsizing” amongst the older households in the city. As such the churn in the market will not assist in meeting the need for family housing that has been identified.
- i) The Councils Affordable Housing Requirement**
- 8.11 Mr Stacey’s evidence (CD6.17 paragraph 8.4) highlights that the 2013 SHMA identified a need of 725 dwellings per annum over a five year period 2013-2018 (totalling 3,625 dwellings over the five years). For those five years, the Council delivered 1,497 affordable dwellings in that period – a net underperformance of 2,128 dwellings. The more recent 2018 SHMA identified a requirement of 902 dwellings per annum over a five-year period 2018-2023. For the monitoring period 2018/19 and 2019/20, the Council delivered 294 affordable dwellings – an underperformance of 1,510 dwellings.
- 8.12 Moreover, Right to Buy losses during the Plan period have been substantial. The rate of losses is indeed higher than the rate of delivery and this has been the case since 2004/05, resulting in a net decrease of affordable housing in Sheffield (CD6.17 paragraph 8.5).
- 8.13 When taking Right to Buy losses into account, against the 2013 SHMA need of 725 dwellings per annum over a five year period 2013-2018 (totalling 3,625 dwellings over the five years), the Council has observed a net loss of 123 dwellings in that period – a net underperformance of 3,748 dwellings. Against the 2018 SHMA requirement of 902 dwellings per annum over a five year period 2018-2023, for the monitoring year 2018/19 and 2019/20, a net loss of 441 dwellings was observed, equating to a net underperformance of 2,245 dwellings. The combined effect is a net under provision of 5,993 over the seven year period against the

prevailing SHMA need figures (CD6.17 paragraph 8.5).

- 8.14 Mr Stacey suggests (CD6.17 paragraph 8.6) that given historic rates of affordable housing delivery in Sheffield, there appears to be little prospect of the backlog affordable housing needs being met without a substantial boost.
- 8.15 Within Sheffield as a whole and Stocksbridge and Upper Don ward, there has been a persistent shortfall in delivery against identified needs and targets (CD6.17 paragraph 8.7).
- 8.16 In Stocksbridge and Upper Don ward, permission has been granted for only 28 net additional affordable dwellings since the start of the SHMA period in April 2013, 25 of which are for older persons, leaving just 3 dwellings as general needs housing. In that same period, 45 dwellings were lost through the Right to Buy (CD6.17 paragraph 8.8).
- 8.17 It is important to view this in the context of the 32,036 households on the Housing Register in Sheffield at 25 March 2021. Mr Stacey with reference to an earlier appeal inspector's decision (CD6.17 paragraph 7.9). states that it is important not to lose sight of the fact that these are real people, in real housing need, now (CD6.17 paragraph 8.9).
- 8.18 Mr Stacey highlights that house buying is now out of reach for many people in Sheffield. The Office for National Statistics report that the average house price to average income ratio in Sheffield now stands at 5.79. For those seeking a home in the Sheffield lower quartile property market, the ratio of house prices to incomes stands at 5.84 (CD6.17 paragraph 8.10).
- 8.19 The future supply of affordable housing in Sheffield is far less than is needed, with an estimated forward supply of 1,274 affordable dwellings in the Council's pipeline supply (through the Stock Increase Programme and through contributions made on development sites). If all of this is delivered, this equates to just 1.4 years' supply against the SHMA 2018's identified need figure of 902 affordable dwellings per annum, over the next five years. The acute level of affordable housing need coupled with worsening affordability will detrimentally affect the ability of people to lead the best lives they can. The National Housing Strategy requires urgent action to build new homes, acknowledging the significant social consequences of failure to do so (CD6.17 paragraph 8.11).
- 8.20 Mr Stacey concludes that within Stocksbridge and Upper Don ward, and Sheffield City, the appeal proposals would make a meaningful contribution towards broadening the type and mix of dwellings, including the provision of much needed affordable homes (CD6.17 paragraph 8.12).
- 8.21 Mr Stacey goes on to conclude that against the scale of unmet need in Sheffield, that the

provision of 10% affordable homes will make a meaningful contribution to meeting the housing needs of real people. In light of all the evidence – and particularly the scale of the challenge facing Sheffield in delivering affordable housing, he considers that it should be afforded substantial weight in the determination of this appeal (CD6.17 paragraph 8.14).

8.22 I agree with this conclusion.

j) Conclusion on the delivery of family and affordable housing.

8.23 I have already highlighted that the Council have made no response at all to the housing crisis. The land use designations in the development plan remain as drawn to accommodate the housing needs of a falling population to 2001.

8.24 The “ad hoc” approach to decision making adopted by the Council has resulted in a dominance of student development and more recently residential development in the City Centre and City West areas. This has resulted in both past provision and future supply being focused locationally within the City Centre and City Centre West (70% of past supply) and limited to student accommodation and small apartments which made up 76% of the supply. This is at significant variance with demand which is for 80% houses.

8.25 It is clear that the present approach is not meeting the need for family housing, resulting in those wishing to access family housing leaving the City (CD3.6 page 26).

8.26 It is also clearly the case that the Council is failing to deliver affordable housing and that the overall stock of affordable housing within the city is falling. This situation has led to an acute and chronic problem. The Council's downplaying of the delivery of affordable housing as part of this appeal proposal is troubling. It is symptomatic of the failures to date and represents an attitude that does not bode well for addressing these persistent failures in the future.

8.27 I conclude that the delivery of affordable and Family housing both separately attract significant weight in light of the evidence.

9.0 THE APPROACH TO DECISION MAKING IN RESPECT OF THIS APPEAL.

a) Introduction

9.1 For this appeal there it is important to understand the relationship between parts i) and ii) of Paragraph 11 d of the NPPF in respect of how the most important policies can become out of date, what may constitute a clear reason for refusal under part i) and the application of “tilted balance” in part ii).

b) The basket of most important policies for determining the appeal decision.

9.2 The following policies are referenced in the decision (CD1.9) and are agreed to be the most important in determining this appeal:

- a) UDP policies: BE15, BE19, and LR5 e) i) and j), GE4,
- b) Core Strategy Policies: CS22, CS23, CS24, and CS72

9.3 While it is agreed that the above are the “most important policies” it is now the Council's position that, contrary to their position stated in the Committee Report (CD1.7 Page 94), and the reasons for refusal, the Council’s witness is now seeking to argue that the basket should be considered up to date and retain “significant weight” in the determination of this appeals (CD6.4 SCC SoC paragraph 4.21).

9.4 It is noted that the Council's witness is not identifying any material change in circumstances to justify this significant volte face.

9.5 The Council's position is that the basket of most important policies is up to date and that the application should not be determined in accordance with paragraph 11 d of the NPPF.

9.6 It is my position that the basket of most important policies when considered individually and as a whole are out of date and I am therefore of the opinion that the appeal should be determined in accordance with paragraph 11 d of the NPPF.

c) The Approach to Decision Making – The relationship between parts i) and ii) of Paragraph 11 d of the NPPF.

9.7 Paragraph 11 d requires that decision makers should apply a presumption in favour of sustainable development which, for decision taking, means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed ; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 9.8 If the most important policies are out of date (as I argue is the case here), paragraph 11 d i) requires the decision makers to consider the application of the policies in the Framework identified in footnote 6, that seek to protect areas or assets of particular importance and determine if they provide a clear reason for refusal.
- 9.9 This requires the decision maker to consider the impact of the proposal on those areas or assets, without applying the tilted balance, to establish if the application of the Framework policies on these topics provide a clear reason for refusal.
- 9.10 If the application of the footnote 6 policies does not provide a clear reason for refusal, then the decision maker may move on and consider the proposal in accordance with part 11 d ii).
- 9.11 It is important to note that the process of considering if there are “clear reasons for refusal” under part 11 d i) goes beyond just identifying if footnote 6 policies are engaged but requires them to be applied and assessed.
- 9.12 In this case the Council is arguing that there will be substantial harm to the nearby listed buildings by virtue of the proposed development and as such paragraph 195 of NPPF is engaged and this results in there being clear reasons for refusal. The Council argues that if this is the case, then the paragraph 11 d ii) is not applied.
- 9.13 If however the proposal causes substantial harm but this is outweighed by substantial public benefits then this would not result in a clear reason for refusal in the context of Paragraph 195 (NPPF) and then paragraph 11 d ii) maybe applied.
- 9.14 More pertinently and consistent with the Appellant's case, where a development causes less than substantial harm and this is outweighed by the public benefits, then this does not represent a clear reason for refusal as paragraph 196 (NPPF) requires that the harm should be weighed against the public benefits of the proposal.
- 9.15 In situations where the policies in the NPPF (in this case 195 and 196) do not provide a clear reason for refusal then the appeal will fall to be determined under paragraph 11 d ii).
- d) The Approach to Decision Making – The out of date nature of development plan policies.**
- 9.16 Part d of paragraph 11 states:
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (footnote 7), granting permission unless...*
- 9.17 The gateway to the rest of paragraph 11d is in this case therefore, to determine if the most

important policies are out of date. It is not claimed that there are no relevant policies at all.

- 9.18 Footnote 7 of Paragraph 11 d explains policies are rendered out of date if the Council cannot demonstrate a five-year land supply.
- 9.19 However, this is not the only way in which policies may be considered out of date. They may be out of date due to inconsistency with the Framework. They may also be out of date for other reasons.
- 9.20 The law relating to the interpretation of a policy being out-of-date is usefully explained by Lindblom J (as he then was) in *Bloor Homes East Midlands Limited v SSCLG* [2014] EWHC 754 (Admin); [2017] PTSR 1283. This decision relates to the 2012 NPPF and deals with the question of the out of date nature of policies. The judge states in paragraph 45 of the judgement that:

“If the plan does have relevant policies these may have been overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason, so that they are now “out-of-date”. And the question of whether relevant policies are no longer up to date will be either a matter of fact or perhaps a matter of both fact and judgment.”

- 9.21 There have been no appeal decisions in Sheffield which have considered the out of date nature of the development plan policies, especially in the context of the Open Space Area policy LR5 and Countryside policy CS72. I have therefore reviewed how Inspectors have assessed development plan policies concerning the provision of housing and similar constraint policies in neighbouring Local Authorities under the current Framework. I then consider appeals that deal particularly with the issue of the separation of settlements in other contexts. This section discusses each decision in turn in relation to its relevance to the case.

i) *Land to the north west of Northmoor View, Brimington, APP/A1015/W/19/3223162 (CD5.34)*

- 9.22 This appeal was allowed on 9th August 2019, for up to 150 dwellings on land north west of Northmoor View, Brimington, Chesterfield and in addressing the issues of the up to date nature of development plan boundaries stated (CD5.34):

“16. However, in light of guidance contained in the Framework the matter clearly does not end there, especially as the LP is now time expired and of some vintage. Although policies should not be considered out of date simply because they were adopted prior to the publication of the Framework, there is no evidence before me to indicate that the settlement boundaries applicable in 2006 are still appropriate today and consistent with the Framework’s objective of boosting significantly the supply of housing.”

- 9.23 In respect of the separation between settlements, the policy context was policy CS1 in the Core Strategy which referred to the general location of strategic gaps. The inspector concluded that this was out of date because (CD5.34 paragraph 19):

*“Whilst the general principle of strategic gaps might well be consistent with the aims of the Framework to promote local distinctiveness, there is a reasonable expectation at paragraph 23 of the Framework that designations and allocations will be identified on a policies map. Whilst the Council may have its reasons, the fact is that the DPD has not been published some 5 years after the adoption of the CS. Moreover, no review has taken place as advised in paragraph 33 of the Framework. **This means the policy is both inconsistent with the Framework and manifestly out-of-date on its own terms.**”*

9.24 This highlights that the failure of a Council to proceed with subsidiary development plan documents that are required to interpret Core Strategy Policies can be considered as an “event” that render policies out of date.

ii) **Land at Deerlands Road, Wingerworth (APP/R1038/W/17/3192255) (19th November 2018) (CD5.28)**

9.25 This appeal was for residential development of up to 180 dwellings, public open space, landscaping, highways and drainage works and was allowed by the Inspector.

9.26 This appeal concerned the effect on the character and appearance of the area and whether the development would be accessibly related to the settlement of Wingerworth. The inspector concluded that limited harm would be caused to the character and appearance of the area and the policies of most relevance to the appeal were deemed out-of-date.

9.27 The Inspector considered the following in reaching the decision that the basket of policies was out of date:

a) The Settlement Development Limits (SDL), were to be out of date as they did not address the District’s housing needs. This was unrelated to whether the Council could demonstrate a five year housing land supply (CD5.28 Paragraph 19).

b) The SDLs were intended to address development needs up to 2011 and have little to do with the present position and the housing targets set out in the LP are out of date. SDL and the related policies relating to the location of development are inextricably interlinked (paragraph 20).

c) The Council had allowed developments which are inconsistent with the LP (CD5.28 Paragraph 22).

d) The Council accepted the policy required “overriding exceptional circumstances” test for development in the countryside. This is not, and has never been, part of national policy outside Green Belts or Areas of Outstanding Natural Beauty (CD5.28 paragraph 23).

iii) **Hockley House, Hockley Lane, Wingerworth (APP/R1038/W/18/3206187) (30th January 2019) (CD5.29)**

- 9.28 This appeal concerned an Outline Application for the construction of up to 35 dwellings with all matters reserved except for access and was upheld in the decision notice dated 30th January 2019. (APP/R1038/W/18/3206187) [CD5.29],
- 9.29 In this appeal the Inspector referred to the Deerlands Road decision (above) stating:
- “However, my colleague in respect of that other appeal decision, found that the North East Derbyshire Local Plan (the Local Plan) policies relating to the **Settlement Development Limits and development in the countryside were out of date**. The reasoning included the circumstances of the SDL, as set out in the Local Plan, **not addressing the District’s housing needs, with the Local Plan housing targets being out of date**. He went on to find that this did not mean those policies could be ignored, but that they had significantly reduced weight. I agree.”*
- 6.1 This reaffirms the approach that development limits and policies for development in the countryside were considered to be out of date, due to the fact that these limits were set against a different housing requirement to be met over an expired time period.
- iv) **Appeal Ref: APP/R1038/W/20/3251224 Land South East of Williamthorpe Road and West of Tibshelf Road, Holmewood, Derbyshire (CD5.26)**
- 9.30 There are a number of similarities between this appeal and the current appeal in that it considered a site in the open countryside where landscape impact was the main consideration. In that case unlike the present appeal, it was agreed that there was a five year land supply.
- 9.31 In reaching a decision of the out of date nature of the basket of policies, the Inspector found GS1 lacked conformity with the Framework as a number of its criteria, including exceptional circumstances for development outside a settlement boundary and requirement for the development of brownfield land before greenfield were inconsistent with the Framework (CD5.26 Paragraph 78). Similarly, she found the circumstances set out in GS6 whereby development might be permissible were not reflective of those in the Framework (CD5.26 Paragraph 78).
- 9.32 In undertaking the assessment as to out of date nature of the basket of policies the Inspector concluded (CD5.26 Paragraph 80):
- “Policy NE1 is dedicated to landscape matters, which is the main issue in contention this case. GS1 and GS6 are more rounded in that they are housing policies but, **by virtue of the settlement boundaries, identify the site as being in the countryside in policy terms**, while also dealing with landscape matters. It is on this basis of this countryside location that NE1 is relevant and for this reason, when taken as a whole, it is my judgement that the most important policies are out of date.”*
- 9.33 In granting outline permission for up to 250 dwellings the Inspector the Inspector applied the “tilted balance” (CD5.26 Paragraph 82).

v) *Appeal Ref: APP/Q3115/W/19/3220425 Land to the east of Reading Road, Lower Shiplake (CD5.31)*

9.34 This was an appeal against the refusal of outline permission for an extra care development of up to 65 units. The main issues included an assessment of the out of date nature of the most important policies. The Inspector noted that the tilted balance is down to whether policies are out-of-date. The Inspector concluded the following:

- a) That policy CSH1, which sets the housing requirement for the district and distribution was based on a requirement derived from the revoked South East Regional Strategy and was not based on an objectively assessed need. On this basis it is not consistent with the Framework and is out-of-date (CD5.31 Paragraph 76).
- b) That where the site was not a valued landscape and policies in the development plan that seek to protect the countryside, (G2, G4 and C4 from the LP and policy CSEN1 in the CS) were formulated at a time where the advice provided a greater degree of 'protection' rather than 'recognition' as now. In that regard whilst they seek to address a matter identified in the Framework, there is a more onerous burden placed on the development and if applied in a strict reading these policies would further constrain housing and, given the overall requirement on which the plan is predicated is out of date, would potentially frustrate much needed housing development (paragraph 77)
- c) The inspector concluded (CD5.31 Paragraph 79) that that taken as a whole and given the conflict with the spatial strategy and landscape policies, the development would not be in accordance with the development plan. However, on the basis of the information before the Inquiry, and taking the policies together, those that are most important for the determination of the appeal are out of date and therefore the tilted balance at paragraph 11 (d) of the Framework is engaged.

9.35 In summary, the Inspector, in reaching a decision as to the out of date nature of the policies, considered their consistency with the Framework as a whole, including the context in which they were drafted i.e., for a much lower level of housing requirement, as well as the degree to which the policy wording was more restrictive than that in the NPPF.

vi) *Appeal Ref: APP/C1570/W/20/3256109 Land off Isabel Drive and Land off Stansted Road, Elsenham, Essex (CD5.32)*

9.36 The appeal related to a development of up to 99 homes.

9.37 The Inspector noted (CD5.32 Paragraph 8) that policy S7 of the LP was one of the most important policies for determining the application and that the policy can be separated into three main sections. The first two state that the countryside will be protected for its own sake,

with strict control on new building that is not within settlement boundaries. The third section, dealing with character and appearance, was considered to be broadly consistent with the NPPF. The Inspector concluded that the **locational aspects of saved policy S7 are out of date**. The Inspector goes on to note that the Council accept that the settlement boundaries must be flexible and that saved policy S7 must be breached in order for a sufficient supply of houses to be provided.

9.38 In paragraph 12 the Inspector notes that that the Council will continue to rely heavily upon breach of saved policy S7 to deliver the required number of new homes and that whilst the Council can demonstrate substantial recent over delivery under its Housing Delivery Test, given the circumstances on the ground that the Council currently finds itself in, this cannot be taken as a reliable indication of future delivery.

9.39 The Inspector highlights that instead of plan-led housing delivery provided by a framework for addressing housing need, the Council relies on an incremental supply of sites coming forward.

vii) *Land to the East of Mere Lane, Edenthorpe Doncaster (by the Secretary of State) (APP/F4410/W/17/3169288)(5th February 2019). CD5.26*

9.40 This appeal concerned an outline application for residential development with open space, landscaping and associated access. The appeal was allowed by the Secretary of State.

9.41 This appeal decision also deals with the issue of the weight to be attributed to development plan policies (in this case Core Strategy Policies CS3 Countryside Protection Policy Areas (CPPA) and Green Wedges (CS3) as well as older UDP policies ENV2 (Countryside Policy Area – CPA) and ENV4 (Development permitted in Countryside Policy Area)) in the context of there being over 10 years supply of housing land (CD5.26 Paragraph 14).

9.42 Similar to the earlier examples, the extent of Policy ENV2 was defined by reference to establishing an adequate supply of housing in the UDP, the evidential base for which was 20 years old (CD5.26 IR Paragraph 263). The Inspector also found that it applied equal restriction to Green Belt and countryside designations (CD06/05 IR Paragraph 264). Policy ENV4 defined a very limited range of development that would be permitted in the countryside and did not include urban extensions or general housing.

9.43 In paragraphs 266 and 267 of the Inspector's Report (CD5.6), the Inspector stated that Policies ENV2 and ENV4 did not reflect the housing needs of a competitive economy.

9.44 In paragraph 270 of the Inspector's Report (CD5.26), the Inspector highlighted that the detailed boundaries of the Countryside Protection Policy Area (CPPA) were to be defined

though a separate policy vehicle which was also to define future development allocations and that this has been withdrawn.

9.45 Paragraph 271 of the Inspector's Report (CD5.26) stated that while the boundaries of CPPA (the Countryside Protection Policy Area as defined in the CS) had yet to be defined in detail, reliance on the older UDP boundaries (ENV4) (the Countryside Protection Area (CPA)) as defined by the UDP would be a backward step that could undermine the forward looking vision of economic success.

9.46 The Inspector went on to conclude:

*"279. Notwithstanding all of the above commentary and in the context of evolving policy, without doubt the Development Plan presently places the appeal development site within the CPA and by definition within the 'Countryside'. This at first reading sets up a conflict with the Development Plan. However, as already explored the relevant UDP policies ENV 2 and ENV 4 are out of step with the direction of travel of local and national policy particularly in relation to reference to the CPA, which as an historic designation is out of date (303). **The Council has to some extent relied upon these saved UDP policies as the policy development of the second generation CPA, the CPPA, has not evolved.** As a result these policies, of considerable importance in the determination of this appeal, **are considered out-of-date** and therefore, the tilted balance of paragraph 11 of the Framework, the presumption in favour of sustainable development, applies."*

9.47 I recognise that the Core Strategy for Doncaster was adopted in May 2012 just a few months after the publication of the 2012 Framework (on the 27th March 2012), so like the Sheffield Core Strategy, its drafting was predominately undertaken in an earlier policy environment.

viii) 59 Shefford Road, Meppershall, Shefford (Appeal Ref: APP/P0240/W/17/3190584) CD5.33

9.48 The Inspector at the Meppershall appeal (Ref: APP/P0240/W/17/3190584 [CD5.33]) provides a useful summary of the relevant appeals and case law.

9.49 In this case there existed a 5 year land supply (CD5.33, paragraph 7), but Policy DM4 was considered to be out of date for the following reasons:

- a. The policy seeks to protect the countryside for its own sake (CD5.33, paragraph 17).
- b. The settlement boundaries were sought to provide for a different and materially smaller housing requirement (CD5.33, paragraph 18).
- c. It may not have been possible for the CS to determine settlement boundaries in anticipation of allocations in a subsequent SADP (CD5.33, paragraph 18).
- d. With no revision of the boundaries some 42% of the supply is now on unallocated sites outside of the settlement envelopes (CD5.33, paragraph 18).
- e. The five year land supply existed despite of, rather than because of, the policy (CD5.33, paragraph 19).
- f. A significant number of sites outside of the existing settlement boundaries will need to be allocated to meet future housing needs.

9.50 I will consider each of these circumstances in more detail in this Proof of Evidence in the context of the most important policies in respect of this appeal.

e) Conclusion on how policies may fall to be out of date.

9.51 In this context policies may become out of date for the following reasons:

- a) Lack of a five year land supply
- b) Inconsistent with the Framework
- c) Other reasons – things that have happened since the policy was adopted, either on the ground, or for some other reason, so that they are now "out-of-date". This may include:
 - i) Does the extent of housing allocations seek to provide for a different and materially smaller housing requirement than is now needed?
 - ii) Is the extent of the counterpart of those housing allocations, such as designations that seeks to resist development, consequently related to the scale of those housing allocations?
 - iii) Was it possible for the plan to determine the boundaries of restrictive policies in anticipation of more recent housing requirements?
 - iv) Does the Five-Year Land Supply exist despite of, rather than because of the adopted policies?
 - v) Will a significant number of sites outside of the existing settlement boundaries need to be allocated to meet future housing needs?
 - vi) Has there been a failure to take action prescribed in earlier plans – such as to produce an allocations plan to support a core strategy (see for example CD5.34 APP/A1015/W/19/3223162 Land to the north west of Northmoor View, Brimington)?

f) The approach to the identification of the basket of most important policies and the “tilted balance”

9.52 *Wavendon Properties Ltd v SSHCLG* [2019] EWHC 1524 (Admin) (CD5.10) makes it clear that the most important policies should be viewed together, and an overall judgement made whether the policies as a whole are out of date.

9.53 The approach therefore to be taken is as follows:

- a) Identifying the basket of most important development plan policies and the question of conflict.

- b) Consider if each policy is “Out of date”; whether there is no 5 year land supply, whether or not the policy is inconsistent with the NPPF or overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason.
- c) Reach a judgement whether as a whole the basket of most important policies is out of date, noting that even if one or more of the policies in the basket are out of date, this is not determinative of whether the basket of most important policies is out of date overall.
- d) The out of date nature of the basket of policies then informs the decision as to the application of the “tilted balance” in NPPG paragraph 11.
- e) The proposal must however still be judged against the policies of the development plan and a judgement made about weight, even if the policies are out of date. This will include a number of factors. The degree of any conflict must be weighed against the out of date nature of the policy, the extent of conflict with the Framework and other material considerations such as:
 - i) The effect of application of the policy in relation to the terms of the Framework.
 - ii) The effects of the scheme when judged against the terms of the Framework.
 - iii) The degree and extent of housing undersupply and the effects of the undersupply.
 - iv) The timing of any resolution to the land supply issue and the likely length of the period of undersupply.
- f) Finally, a balance of harms and benefits has to be taken in the light of the tilted balance – any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.

9.54 Given the Council's change of position on this issue the next section will undertake this exercise in terms of the agreed basket of policies.

10.0 THE COMPLIANCE, OUT OF DATE NATURE AND WEIGHT OF THE MOST IMPORTANT POLICIES FOR THE DETERMINATION OF THIS APPEAL

a) Introduction

10.1 It is my reading of the terms of the refusal as well as the Committee Report (CD1.7) that the Council officers in drafting the report and the members in drafting the reasons for refusal acknowledged that the most important policies for the determination of the appeal proposal are out of date and the tilted balance is engaged. I reach this position because the Committee Report explicitly states this to be the case (CD1.7 page 94) and the reason for refusal articulates the application of the balance in reason 2 as follows:

“The resulting adverse impacts would significantly and demonstrably outweigh any benefits the scheme delivers.”

10.2 The decision notice for reason 2 specifically undertakes a “tilted balance” approach by weighing the adverse impacts of the appeal proposal against the benefits, using the terminology and approach in the Framework paragraph 11 d) ii). This approach is only engaged where the conditions of 11 d) are met, notably where the policies which are most important for determining the application are out-of-date.

10.3 In terms of the position of the committee I viewed the meeting on the 14 July 2020 remotely and note that the members did not seek to challenge the assessment of the out of date nature of the policies and as the Minutes note, members resolved to refuse the application because they considered the appeal proposal caused:

“... significant harmful impact on visual amenity both locally and wider, and the substantial harm to a heritage asset.”

10.4 I note that this position has changed in the Council's Statement of Case (CD6.4 paragraph 4.18) and that the Council is now seeking to argue that the basket of most important policies is up-to-date.

10.5 The table below sets out what are now agreed to be the most important policies and the Council's original position (CD1.7), their position as in their Statement of Case (CD6.4), their position in the Statement of Common Ground (CD6.7) and sets all these against my assessment which I explain fully below.

Table 1 Most important policies out of date nature and weight

Policy	SCC Committee Report		SCC Statement of Case		SCC Statement of Common Ground		SPRU SoCG	
	Out of date nature	Weight?	Out of date nature	Weight?	Out of date nature	Weight?	Out of date nature	Weight?
CS72	out of date	limited weight		Reduced Weight	Not Fully Consistent	Moderate weight	out of date	Very little weight
LR5	out of date	limited weight		Reduced/ Moderate Weight	To a degree inconsistent	Moderate Weight	out of date	Little weight
CS22	out of date	limited weight	No mention	No mention	Not Fully up to date	No weight	out of date	little weight
CS23	out of date	diminished weight		Moderate Weight	Not Fully up to date	Moderate weight	out of date	little weight
CS24	out of date	reduced weight	Not fully compliant	Moderate Weight	Not Fully up to date	Moderate weight	out of date	little weight
CS33	out of date	no weight	No mention	No mention	To a degree inconsistent	Moderate weight	out of date	little weight
BE15	Not assessed	weight		Substantial weight	Not Fully up to date	Substantial weight	out of date	little weight
BE19	Not assessed	weight		Substantial weight	Not Fully up to date	Substantial weight	out of date	little weight
GE4	No mention	No mention		Substantial weight	Not Fully up to date	Substantial Weight	out of date	very little weight

10.6 Before embarking on the process of assessing each policy against the Council's revised position, as now emerging through the negotiations on the Statement of Common Ground it is worth noting that the position taken by the Council's officers on these policies in the Committee Report are not an anomaly. A more recently considered application (also in Stocksbridge/Deepcar) took a very similar position on all policies to that in the Committee Report for the appeal site.

10.7 This was an outline application for 41 dwellings at 9 -11 Wood Royd Road although refused on 25 February 2021 the Committee Report (CD7.17 page 72) confirms the same approach as the Committee Report for the appeal on the following policies:

*In relation to the erection housing within the designated Open Space Area, it has been found that the development would not conflict with **UDP Policy LR5**, and that **LR5 can only be given limited weight** as the elements of it relating to the protection of open space for visual amenity alone are **not consistent with the NPPF**.*

***Policies LR8 and CS47 are not considered to be applicable** with respect to this application since LR8 relates to the loss of recreation space, the site is used for grazing, and **application site does not fit into any of the formal or informal categories of open space defined in the Core Strategy**.*

***Policy CS72 relating to countryside situated on the edge of built-up areas goes beyond the requirements of the NPPF and can only carry limited weight**, but in any case the proposal doesn't conflict with it because the application site is contained by built development on three sides and is not open countryside or land that is situated on the edge of the built-up area.*

10.8 It is pertinent to note therefore that the Council officers have not in general revised their position on the out of date nature of these policies, their weight or their applicability.

b) Policy LR5 Development in Open Space Areas – General

Compliance of appeal proposal

10.9 The reason for refusal alleges that the proposal conflicts with parts i and j of LR5, however the SoC extends this to include part e as well.

10.10 I will deal with these under the headings for each part but in the terms of the policy.

Out of date nature of policy overall

10.11 Taken as a whole this policy is out of date for two reasons it is **not compliant with the NPPF** both in terms of definition of open space and the inflexible nature of its approach (at least as now interpreted by the Council) and secondly the policy designation on the Proposals Map are out of date as they have been **overtaken by events**.

10.12 This policy has been **overtaken by events** as the designations and their boundaries, as shown on the UDP Proposal Map were set 23 years ago and relate to the level of protection

required for those areas that were not allocated for development in the context of meeting the housing (and other) requirement of just **1,070 dpa** in the UDP period 1991 to 2001. The level of housing required when these boundaries were set is just 37% of what is now required by the standard method **2,923 dpa**.

- 10.13 The available evidence now, is that not only will UDP “Open Space Areas” be required for development to deliver the tripling of the housing requirement since they were first identified, but also that there will most likely need to be substantial Green Belt release. The Green Belt release itself will only be justified once there has been a thorough examination of all non-Green Belt areas, in order to meet the exceptional circumstances test and NPPF 137.
- 10.14 The fact that the policy designation has been **overtaken by events** is demonstrated by the number of housing developments that have been granted in locations with an LR5 designation on the UDP map.
- 10.15 There have been at least 17 examples since 2001 (Appendix 2 list of sites) where the Council have permitted residential development on “Open Space Areas”. In some cases, this designation only formed small elements of the site but in other cases the designation covered the whole site.
- 10.16 One example where the designation covered the complete site is 17/01281/FUL (CD7.21) which was for 138 dwelling houses. The Committee Report, under the heading “Living Conditions” refers to LR5 in the following terms:
- “UDP Policy LR5” Development in Open Space Areas” states that development will not be permitted where it would result in over-development or harm the character of an area, or would be incompatible with surrounding land uses.”*
- 10.17 The report goes on to assess the proposal against LR5 under the heading “Living conditions” as follows:
- “Given the above, it is considered that the proposed development would not adversely impact on the amenities of existing occupiers, or on occupiers of the proposed new properties to a degree which would warrant refusal of the application. Accordingly, the proposal complies with UDP Policy H15 and LR5, and the core principles of the NPPF at paragraph 17.”*
- 10.18 What is clear in this example is that the Council were not treating LR5 in a way that precluded development but in the context of comparing the development with the neighbouring uses and character. This is much like the approach in the Committee Report in this case.
- 10.19 The Policy is also **out of date** due to being **inconsistent with the NPPF**.
- 10.20 The appeal site is identified on the UDP proposals map (CD3.5) as an “Open Space Area”, which in my submission is different to “Open space” or “Local Green Space” as defined by

the NPPF. It is neither of those.

- 10.21 “Local Green Spaces” must be designated though through local and neighbourhood plans. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated (NPPF paragraph 99).
- 10.22 It is agreed (Councils SoC paragraph 6.8 and Committee Report CD1.7 Page 32) that the site does not meet the criteria for the designation of Local Green Space set out in paragraph 100 of the NPPF.
- 10.23 A key requirement of “Open Space” in the context of the NPPF Annex 2 page 69 is that it must offer important opportunities for sport and recreation although it may also provide visual amenity but is not required to do so.
- 10.24 It is agreed (CD6.7 SoCG) that this is an area of inaccessible land and its only function could relate to its visual amenity from public vantage points outside the site, and as such it falls outside of the definition of open space in the NPPF annex which as explained above requires “open space” to offer important recreational opportunities – the appeal site does not.
- 10.25 “Open Spaces Areas” are not a land use or policy designation that is recognised in National Policy.
- 10.26 This Policy does not seek to protect recreation or amenity land instead it functions more like a policy, at least as it relates to this site, to protect an open area of countryside from development. Some of the other areas designated as “Open Space Areas” do include land which meets the NPPF criteria of offering important opportunities for sport and recreation. However, that cannot be said of the appeal site and the wider area of Hollins Busk which has no public access and offers no opportunity for sport or recreation. In this respect the policy designation has been expanded to effectively fulfil the role of countryside protection land between the built form of the settlement and the Green Belt. Such protection is not consistent with the Framework.
- 10.27 Consequently, at a broad level, in addition to the **extent** of policy designation being overtaken by events, when LR5 is applied to this site, it is **not consistent with the Framework** because (at least as interpreted by the Council) it amounts to countryside protection as a blanket restriction without balance. Further it is not consistent with the Framework to treat the appeal site as though it was open space in the sense meant by the Framework. That refers to open space of public value which offers important opportunities for sport and recreation. The

appeal site does not do that.

10.28 Further, policy LR5 states that development will not be permitted in a given set of circumstances (CD3.4) and as written if there is any harm or impact, the policy directs refusal with no balancing of benefits that a development may bring. This balancing of harm and benefit is a central part of the NPPF. Without accommodating such an approach, Policy LR5 is clearly inconsistent with the NPPF out of date.

10.29 Further evidence that Policy LR5 is inconsistent with NPPF is that paragraph 97 of the NPPF sets out clearly the tests that now apply to the development of open space and these test are substantially different to the 11 tests in LR5. Not only are there a greater number of criteria in LR5 but none of them mirror the criteria in Paragraph 97 of the framework.

10.30 I note that the assessment of the policy LR5 as a whole in Committee Report (CD1.7 page 31 to 32) concurs with this assessment stating that NPPF paragraphs 96 and 97 which relate to open space cannot apply to land valued only for visual amenity. It goes onto state:

“Furthermore, NPPF paragraph 97 cannot apply to land primarily safeguarded for its visual amenity. This is because open space protected for its visual amenity could never be deemed surplus to requirement (NPPF para 97a) or be replaced by equivalent or better provision (NPPF para 97b). Therefore, the protection of land for visual amenity alone is not consistent with the open space policies of the NPPF.”

Weight

10.31 I give little weight to any failure to comply because of the policy as a whole is out of date for the reasons set out above these being;

- Its extent has been overtaken by events,
- Its application to the appeal site as though it were a policy to strictly restrict development in the countryside with no balance identifies inconsistency with the NPPF,

In addition, it would be a mistake in my view to equate the name of the policy "Open Space Area" with open space as defined by the Framework and certainly it bears no resemblance to paragraph 97 of the Framework in its approach.

Commentary on Council's approach

10.32 The Council's SoC (paragraph 4.9) accepts policy LR5 is not fully consistent with the Framework and the weight attributed to it is reduced. It follows that a policy that is considered to be "not fully consistent" and is given reduced weight is clearly out of date. The Council has failed in the SoC to address the effect of the apparently agreed position that the policy is out of date and jumped straight to the question of weight.

10.33 This approach, which is consistent throughout the Council's SoC appears to confuse weight

and the out of date nature of policy.

10.34 The Council also takes an approach that in testing the out of date nature of the policy it is appropriate to disaggregate a policy into its consistent parts. This is not an appropriate.

i) Policy LR5 e)

Compliance of appeal proposal with policy

10.35 In respect of part (e), the policy requires that development will not be permitted where it would harm open space which forms the setting for a Listed Building or other historic building or is needed to maintain an important view or vista. Its protection is focussed as much on the open space as the listed building as a heritage asset.

10.36 I would conclude for the reasons I set out later in my response to BE15 and BE19 that the appeal proposal is not in accordance with LR5e, but that its approach is out of date and the correct approach is to consider the terms of the NPPF, as explained by Mr Bourn (CD6.19 paragraph 4.42 to 4.44) and applied (CD6.19 Paragraph 4.45 and 4.46 see also 5.18 and 5.19).

Out of Date Nature of the Policy

10.37 The policy prohibits development that harms open space, which forms the setting of a listed building. The first point to note is that this does not allow for the balance of harms and benefits that is inherent in NPPF 196 and indeed also 195. The test in the policy is that any level of harm would result in refusal and this is inconsistent with the NPPF in paragraphs 194-198. Further, it is harm to the actual listed building that is a material consideration in terms of the NPPF, not harm to open space, whilst noting harm to a listed building can be caused by changes to its setting.

10.38 The approach of the policy is not in accordance with that now required by the NPPF and as such the policy is out of date.

Weight

10.39 In a situation where a policy is not compliant with the NPPF then I consider weight compliance should be judged through the application of the statute and NPPF policies. In this case, given Mr Bourn's evidence which highlights that the proposal will cause less than substantial harm (CD6.19 Section 5 Paragraph 5.22) and my conclusion that while this attracts great weight it is nevertheless outweighed by the benefits of the appeal proposal, then the proposal can be considered to be consistent with the approach of the NPPF and the law such that any perceived breach of its terms could only be given little weight.

The Council's position.

- 10.40 The Council in their statement of case (CD6.4 4.12) seek to argue that in open space areas LR5 (e) adds a further level of protection to the setting of listed buildings.
- 10.41 This position is qualified in CD6.4 paragraph 4.13, in which the Council recognise that this policy does not fully reflect the Frameworks approach to assessing the potential harm a development may have on the significance of a designated asset (including its setting).
- 10.42 I would argue that the suggestion that the policy does not fully reflect the NPPF approach is an understatement. It is demonstrably a very different approach and is out of date.
- 10.43 I note that in CD6.4 paragraph 4.13 the Council go on to argue significant weight be attracted collectively to LR 5 e and BE15 and BE19 because of the importance of protecting the historic environment is an integral part of the environmental objective of sustainable development (Paragraph 8 c. of the Framework), and the policies align with Chapter 16 of the Framework.
- 10.44 Again, the Council are confusing the importance of the underlying issue with whether the policy is up-to-date.
- 10.45 As indicated above, it is my view that the heritage aspects of this case are a matter of application of the approach in the NPPF, within the terms of the law and that the outcome of that assessment determines the outcome of the appeal on that matter, for reasons explained by Mr Bourn (CD6.19).

ii) *Policy LR5 i)*

Compliance of the appeal proposal with the policy

- 10.46 Policy LR5 i) prevents development that would result in over-development or harm the character of an area.
- 10.47 Properly applied this is a policy that does not preclude development as the term “over development” clearly means some development so the policy is one that seeks to deliver an appropriate density of development which is compatible with its surrounding areas. This is a judgement.
- 10.48 As demonstrated by the aerial view of the site Fig 1 the proposed density of the site is not out of character with the surrounding residential development and as such it is not considered that there is any conflict with this part of policy.
- 10.49 The example given above 17/01281/FUL (CD7.21) which was for 138 dwelling houses on Norton Playing Fields Derbyshire Lane, is an illustration of how the Council have applied the policy in the past. This is entirely consistent with my position.

10.50 The Committee Report (CD1.7 page 98) states that:

*“in any event **policy LR5** is addressed and there is **no conflict**”.*

10.51 The Council's Statement of Case (CD6.4) does not raise an issue regarding the density of the scheme or that it is out of character with the surrounding residential development.

10.52 I note that the Council's statement of case (CD6.4 paragraph 4.10) states clearly that this policy is not a bar to development and refers to 127 c) which is also about the design of new developments which are encouraged to be sympathetic to the surrounding built environment and the landscape setting whilst not and discouraging change.

The up to date nature of the policy

10.53 As applied in earlier cases and in the Committee Report this element of the policy may not be out of date.

10.54 If, however, it is now being applied to suggest that the character of the appeal site cannot be subject to change, then this is contrary to the NPPF which seeks to manage development and change not to preclude it. Even NPPF policy 170 b) does not seek to maintain the open character of all countryside just that it is properly “recognised”.

Weight

10.55 The issue of the appropriate density and character of development is addressed by the NPPF.

10.56 If one considers this part of the policy properly and consistently with the NPPF, it is complied with and can be given weight, if one does not, it is inconsistent and of little weight.

10.57 I note the Council have applied this part of the policy inconsistently. I also rely on the overarching comments in relation to LR5 overall set out at the start of this section.

The Council's position.

10.58 The Council's statement of case (CD6.4 paragraph 4.11) suggests that LR5 (i) in protecting the character of open space as well as preventing it from being overdeveloped is consistent with Paragraphs 127 c) and 170 b) the Framework.

10.59 The Council's statement of case however seems to recast the wording of LR5 i). The policy simply does not require the protection of the character of open space by preventing all development but seeks to prevent harm to the character of the area not the site itself.

10.60 I note the Council suggest that LR5 i) is consistent with Paragraph 127 c) of the Framework which requires that decisions should ensure that developments “are sympathetic to local character and history” this part of the NPPF requires that the change in the character of an

area be sympathetic not that that sites should not be developed or have any change at all, which appears to be the Council's new interpretation of this policy. Paragraph 127 is about how development may be accommodated not the prevention of it, so it clearly does not support the Council's new interpretation of LR5 i).

10.61 The Council also suggest that Policy LR5 is supported by NPPF paragraph 170 c) which requires that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. The Council's new interpretation of LR5 i) is not that the character should be recognised but that it should not change. The Council's interpretation of the policy is at odds with the Framework. This highlights the inconsistency and clearly reduces weight.

iii) Policy LR5 (j)

Compliance of appeal proposal with policy

10.62 LR5 j) prevents development that would harm the rural character of a wedge of open countryside.

10.63 The appeal site represents a modest element of the wider "Open Space Allocation". Furthermore, it is contained by development and by the wooded area of Fox Glen.

10.64 I note the conclusion of Mr Denney (CD6.18 Paragraph 8.16):

"With regard to the highly limited and localised nature of the effects which would arise, it is not agreed that the proposals would give rise to unreasonable harm to landscape character or visual amenity, nor would they therefore give rise to unacceptable impacts on the intrinsic character and beauty of the countryside. Furthermore, it is not considered that the proposals would result in an undermining of the role of the site in providing a visual separation between existing settlement areas. The proposals only extend across part of an undeveloped area, with a clear separation remaining between the proposals to the east and Hollin Busk to the west."

10.65 I also note the conclusion of the Sheffield City Council Landscape Architect in the Committee Report (CD1.7 page 67) with respect to landscape impact:

"In summary and in line with the conclusions in the LVA, there will be some significant localised adverse landscape impacts on the site itself. However, in the broader context of landscape impact taken as a whole in terms of surrounding landscape character, the impact of development on the wider landscape is likely to be limited. A small number of relatively minor differences in judgement of the severity of some of the localised site impacts are unlikely to affect this overall conclusion."

10.66 I further note the conclusion of the Sheffield City Council Landscape Architect in the Committee Report (CD1.7 page 67) with respect to Visual Impact:

"In relation to visual impact, the Landscape Architect agrees with the majority of the assessment of visual impact presented in the LVA report. Broadly, this is that visibility of the site from the surrounding area and the range and quantity of visual receptors is limited."

10.67 It is in the context of this appeal to note the following observation in the Committee Report (CD1.7 page 67) that the differences of professional opinion were minor:

“Overall, the Landscape Architect concludes that, despite outstanding minor differences in judgement, and some significant impacts at the site level, there is agreement with the conclusion in the LVA that landscape and visual impact overall is considered to be limited.”

10.68 The conclusion of the report on this matter assessed the impact both in terms of LR5 and paragraph 170 stating:

“The visual and landscape harm does not go beyond the fact that the site itself changes from undeveloped to developed land. This change from undeveloped to developed land will be substantial, however this does not go beyond that which would occur with the development of any greenfield site.

On this basis, the proposal complies with UDP Policy LR5 (albeit this carries reduced weight in the decision making process as it goes beyond the requirements of the NPPF) and also NPPF paragraph 170.”

10.69 Each of these assessments highlight the limited effects of the proposal on the matters of rural character and countryside. However, as drafted the policy prevents development that would result in **any** level of harm. As almost any development would cause some harm, then that would mean the policy creates a blanket restriction on development. That would be inconsistent with the Framework and render the policy out of date. It would lack balance and would render the policy inconsistent with NPPF paragraph 170 as I set out below and therefore out of date.

10.70 In the circumstances given the level of impact assessed, I am of the opinion that the appeal proposal causes very modest conflict with this policy. In any event, the weight to policy needs to be considered in light of the accepted inconsistency with the Framework.

The up to date nature of the policy

10.71 If the policy resists any harm to rural character and countryside, it would be a bar to most development.

10.72 As such this element of the policy is clearly contrary to NPPF paragraph 170 b) which simply requires decision makers to recognise the intrinsic quality of the countryside.

10.73 The policy does not allow for a balance to be undertaken or a planning judgement made with regard to the benefits of the proposal against the harm.

Weight

10.74 I consider that only limited weight may be attributed to this policy. The Council seem to portray it as a bar to development and if that is correct its weight is reduced for inconsistency with NPPF 170, as well as for the reasons set out above in relation to LR5 overall.

The Council's position.

- 10.75 The Council's Statement of Case (CD6.4 paragraph 4.9) accepts that Policy LR5 is not fully consistent with the NPPF. It follows that the Council accept it is out of date but jump to the next issue of weight.
- 10.76 The Council argue LR5 (j) in protecting the rural character of the open countryside retains moderate weight as this is specific element of the policy remains consistent with Paragraph 170 b) the Framework. I disagree.
- 10.77 Firstly, in assessing the out of date nature of a policy it is not appropriate to dissect the policy into its consistent parts as the NPPF requires and assessment of the policies and ultimately the "basket of policies".
- 10.78 Second if LR5 j) seeks to prevent all harm to rural character no matter what scale of the harm or other benefits that might derive from the proposal, that would be an approach materially different from Paragraph 170 b) as the latter simply requires the "recognition of the intrinsic character and beauty of the countryside" and is not a bar on development.
- 10.79 I note that the Committee Reports CD1.7 and CD1.5 assess the landscape impact of the proposal against LR5 and NPPF paragraph 170 c) and conclude:

"Landscape and visual impact on the wider area will be very minimal given the low visibility of the site and low number of receptors. When private residential views are taken out of the equation (as the loss of a private view cannot not be a material planning consideration), the number of visual receptors are very low.

The visual and landscape harm does not go beyond the fact that the site itself changes from undeveloped to developed land. This change from undeveloped to developed land will be substantial, however this does not go beyond that which would occur with the development of any greenfield site."

- 10.80 This suggests that during the consideration of the application the planning officers did not approach LR5 j) in the way they are now suggesting it should be applied.

c) Policy GE4

Compliance of appeal proposal with policy

- 10.81 This policy seeks that development which is in or conspicuous from the Green Belt should be *in keeping* and wherever possible conserve and enhance the landscape and natural environment (CD3.2a page 92).
- 10.82 The appeal site is not within the Green Belt. It is visible from it however. The principle question as to compliance is whether it is in keeping with the landscape and natural environment. A failure to conserve or enhance, does not cause policy conflict in its own right.
- 10.83 The purpose of the policy is to align with the then national policy that the visual amenities of

the Green Belt should not be injured by proposals which are conspicuous from the Green Belt.

10.84 Drawing from the conclusions of Mr Denney (CD6.18 Paragraph 5.23):

10.85 *“In conclusion, the site is not located within the Green Belt and the reason for refusal does not refer to the effect of the appeal proposal upon the Green Belt. Although the reason for refusal includes matters of the visual separation of the established settlements of Deepcar and Stocksbridge, the Green Belt in this location does not perform this function and it is not considered that the appeal proposals would give rise to any harm to the green belt”*

10.86 The Council's Landscape Architect also concluded (CD1.7 page 43) that landscape and visual impacts will largely be confined to the site itself and its immediate surrounds rather than resulting in any harm to the wider area.

10.87 In light of the above I am confident that the appeal development would be in keeping with the landscape and natural environment.

Out of date nature

10.88 The basis for this policy in 1998, was the then national guidance stated that the visual amenities of the Green Belt should not be injured by development within or conspicuous from it. This guidance has now been withdrawn and is not replicated in any more recent guidance.

10.89 There is no such guidance in the NPPF which seeks to control development outside of the Green Belt in such a manner and as such there is no longer justification for this policy. It is inconsistent with national guidance.

10.90 Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open – it refers to the openness of the Green Belt and permanence. The appeal site is not within the Green Belt and its development will not impact on the openness of the Green Belt. This paragraph does not support the extension of Green Belt policy beyond the Green Belt boundaries.

10.91 Paragraphs 143 and 144 of the Framework refers to inappropriate development. Paragraph 145 defines inappropriate development in this context as being the construction of new buildings in the Green Belt not development outside of the Green Belt.

10.92 It is important to note that the second reason for refusal does not make any reference to the impact of the appeal proposal on the Green Belt as the harm identified is to landscape, visual amenity, and the intrinsic beauty of the countryside which are not Green Belt functions.

10.93 It is my opinion that for the reasons above that policy GE4 is out of date.

Weight

10.94 While the proposal is in accordance with this policy, any contrary view of conflict with the policy should in my view carry very little weight.

The Council's Position

10.95 It is important to note that the Committee Reports (CD1.5 and CD1.7) make no reference to this policy and yet the Council is now suggesting that it is not only relevant but one of the most important policies for determining this appeal.

10.96 The Council seeks to argue that this policy carries substantial weight but is silent on the question of whether the policy is up to date. The Council refer to the fact that local planning authorities are required to ensure that substantial weight is given to any harm to the Green Belt as set out in NPPF Paragraphs 133, 143 and 144.

10.97 These paragraphs however deal with development within the Green Belt and lend no support for this aged policy that seeks to control land outside of the Green Belt.

iv) *Policy BE15*

Compliance

10.98 Policy BE15 seeks to protect areas and Buildings of Special Architectural or Historic Interest and states that development which would result in any harm should be refused (CD3.3 page 76).

10.99 The conclusion of Mr Bourn is that the impact on the setting of the listed building will result in less than substantial harm (CD6.19 Paragraph 5.22). Under a strict reading of this policy any harm requires a refusal.

10.100 This is not the approach adopted in paragraph 196 of the NPPF which would require the less than substantial harm to be weighed against the public benefits of the proposal. There is no such mechanism within this policy to do this.

10.101 As the policy is clearly out of date, there is a need to address the matter though the NPPF and allow for a balance to be struck. It is then relevant to return to the policy, to see what weight should be applied in the light of the outcome of the NPPF balance. Later in this proof I consider the balance required by NPPF 196 and the effect this has on the decision making process.

Out of date nature

10.102 Policy BE15 seeks to protect areas and Buildings of Special Architectural or Historic Interest and states that development which would result in any harm should be refused (CD3.3 page 76). This is not the approach to heritage assets in the Framework which requires the

identification as to the significance of the harm and then testing against the criteria in paragraph 195 of the NPPF for cases of substantial harm or undertaking in paragraph 196 of the NPPF for cases of less than substantial harm. In either case a balance is required.

10.103 There is a clear substantive difference between this UDP policy and the NPPF both in terms of operation and outcome of the policy and as such BE15 should be considered out of date, subject to the outcome of the balance in this case, applying the approach of recent case law, as explained and applied by Mr Bourn (CD6.19 Section 4 paragraph 4.42 to 4.49).

10.104 The Council's SoC (paragraph 4.13) acknowledges that these local policies don't fully reflect the NPPF approach to assessing the potential harm a development may have on the significance of a designated asset but reach no conclusion on the out of date nature of the policy.

Weight

10.105 Given the large variance between the approach in the NPPF and this policy both in terms of the assessment of harm and the policy response to even less than substantial harm I give little weight to the conflict with this policy.

10.106 It should be noted however that I do give great weight to the less and substantial harm identified to the significance of the listed building as identified by Mr Bourn in his evidence (CD6.19 Paragraph 5.22).

The Council's approach

10.107 The Council's position on the up to date nature of this policy is not clear.

10.108 The Council's Statement of Case (CD6.4 paragraph 4.13) states that while the approach in BE15 and BE19 is not "fully consistent" with the approach to assessing potential impacts on heritage assets in Framework Chapter 16 nevertheless they "collectively" retain substantive weight because the Framework also seeks the protection and enhancement of the historic environment.

10.109 This approach appears to confuse the assessment of the up to date nature of the policies with the weight that the NPPF attributed to the issue the policy is seeking to address.

v) *Policy BE19*

Compliance

10.110 This policy requires that proposals for development within the curtilage of a building or affecting its setting, will be expected to preserve the character and appearance of the building and its setting.

10.111 A reading of the policy on its face means that the less than substantial harm identified by Mr Bourn (CD6.19 Paragraph 5.22) would require the refusal of the appeal as it would not “preserve” the setting of the listed building and while under paragraph 196 of the NPPF this less than substantial harm would be weighed against the public benefits of the proposal, there is no such mechanism within this policy.

10.112 As the policy is clearly out of date. The approach of the NPPF is very different. It requires a balance.

10.113 The Sheffield City Council Conservation and Design Officer (CD1.7 Committee Report page 29):

“On balance I am happy that the setting of the listed farm complex has been identified and that mitigation has taken place to reduce any harm to these assets.”

10.114 As noted above this approach is similar to that taken in the Committee Report (CD1.7) pages 55 to 58 on Heritage Issues.

Out of date nature

10.115 This policy is out of date for the same reasons as BE15 above.

Weight

10.116 I take the same approach to weight as BE15 above.

The Council’s approach

10.117 The Council’s SoC deals with both these policies together in paragraph 4.13 and as such my analysis of BE15 above also applies to BE19.

vi) *Policy CS22*

Compliance

10.118 As this Policy sets the overall housing requirement the appeal proposal would be compliant in that it assists in maintaining the five year land supply as required by the last sentence of the policy.

Out of date nature

10.119 The overall scale of housing in CS22 is fundamental to the strategy and sets context for the whole of the Core Strategy. The overall level of housing being planned for in CS22 is the foundation for policies such as the distribution of housing in CS23 and the size and location for potential green field release in CS24, it is also fundamental to the selection of areas that are subject to protection such as CS72 which protects land until 2025/26 based upon the housing requirement.

10.120 The Core Strategy requirement of 1,025 dpa increasing to 1,425 dpa has been superseded

by the Standard Method of 2,923 dpa. This is a significant change which has implications for many of the policies in the Core Strategy that have as their foundation the housing requirement and the land required to deliver it.

10.121 As is demonstrated by the recent Issues and Options consultation (CD3.6 table 1 page 48) meeting the Housing requirement as calculated by the old Standard Method would require a different policy approach including potential Green Belt release. It is my view that accommodating the even higher requirement based upon the Urban Uplift would require an even greater shift in policy and, on the Council's present evidence base, a significant release of Green Belt land to accommodate the required housing.

10.122 This policy states that sufficient sites will be allocated to meet the housing requirement to at least 2020/21. This of course has not been done.

10.123 I note that the Committee Report (CD1.7 page 67) also concluded Policy CS22 was out of date.

Weight

10.124 The policy is out of date and can attract little weight, however more importantly the housing requirement with this policy is a significant input to many of the other policies on the location of development as well as informing the policies that seek to protect areas from development.

The Council's approach.

10.125 The Council do not refer to policy CS22 in their Statement of Case.

vii) *Policy CS23*

Compliance

10.126 Policy CS23 (CD3.1 page 63) states that the main focus for new housing in the period to 2020/21 will be on suitable, sustainably located, sites within, **or adjoining** the main urban area of Sheffield (at least 90% of additional dwellings) and the urban area of Stocksbridge/Deepear.

10.127 I note that in terms of the Core Strategy Key Diagram the urban area of Stocksbridge/Deepear is up to the Green Belt boundary and that the appeal site and the "Open Space Area" of the 1998 UDP fall within the urban area as broadly identified on the Core Strategy Key Diagram. There was of course no further plan prepared that might have determined this on more detail as expected by the Core Strategy.

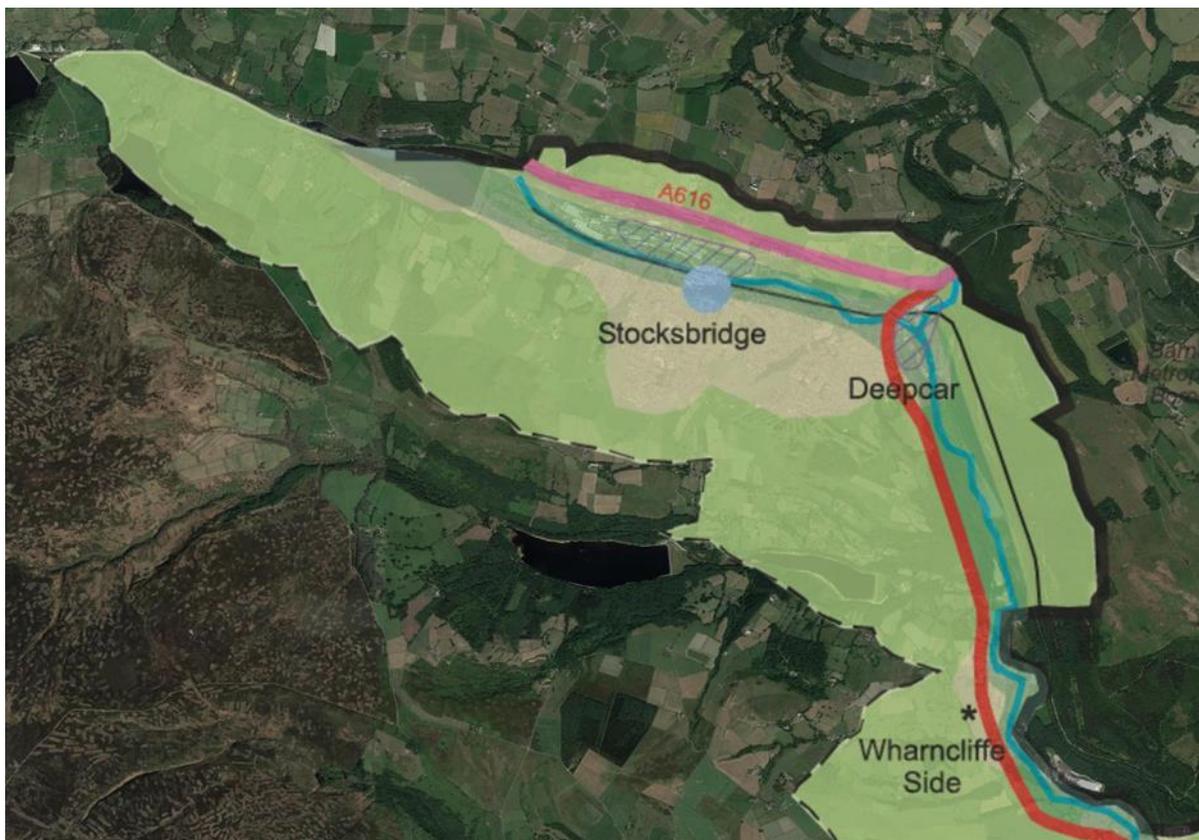
10.128 It would appear in terms of the Core Strategy Key Diagram the appeal site falls within the urban area of Stocksbridge and Deepear. However, the policy refers to sites that adjoin that area being acceptably located in any event.

10.129 I note from paragraph 8.6 of the Core Strategy that these locations have been subject to sustainability appraisal and reflect the two key themes of transformation and sustainability.

10.130 While the policy states that outside the urban areas and larger villages, housing development will be limited to that which is consistent with policies for the Green Belt and countryside areas I note that the extent of countryside areas has not been established. I also note that there is tension between the acceptance of housing in locations that adjoin Stocksbridge and Deepcar and the approach to outside urban areas. I consider that if a conclusion was reached, contrary to the view that the site is within the urban area, it is at least adjoining it and that the reference to outside must be beyond that.

10.131 I consider the appeal proposal to be in compliance with the locational aspect of this policy.

Figure 11. Extract from Core Strategy



The up to date nature of the policy

10.132 The distribution of development in policy CS23 was determined in the context of the much lower housing requirement of CS22. This is demonstrated by the fact that the Issues and Options Consultation 2020 and the earlier Citywide Growth Options 2015 both canvassed options none of which resembled the strategy in CS23 and both included potential Green Belt release. Furthermore, the level of growth including the urban uplift would almost

inevitably require Green Belt release before which all suitable alternatives will need to be assessed in order to establish the exceptional circumstances required to justify such release.

10.133 This policy was set in 2009 and based on earlier evidence that has been overtaken by events, not least the demise of the Regional Spatial Strategy, the introduction of Local housing needs assessment, then the Standard Method and now the Standard Method with the urban area uplift. The policy could not deliver the level of housing now required.

10.134 This policy is not up to date as it has clearly been overtaken by events and its weight is severely diminished.

10.135 I note that the Committee Report (CD1.7 page 95) also concluded Policy CS23 was out of date.

Weight

10.136 While I consider the appeal proposal to be compliant with this policy, nevertheless, I give any alleged non-compliance little weight given the out of date nature of the policy and the reasons for it being out of date i.e., not capable of delivering the housing requirement.

The Council's approach

10.137 The Council do not refer to CS23 in their Statement of Case.

viii) *Policy CS24*

Compliance

10.138 In terms of not exceeding the 12% of housing to be built on greenfield land, the appeal site would be in compliance as between 2004/4 and 2019/20 some 94.69% of all dwellings have been delivered on Previously Developed Land (CD3.13 Sheffield HELAA 2020).

10.139 Part d of this policy allows for sustainably located larger sites within or adjoining the urban areas to be developed if annual monitoring shows that there is less than a 5-year supply of deliverable sites. As there is such a shortfall, the appeal proposal is in accordance with this policy as Stocksbridge/Deepcar (and indeed land adjoining it) has been identified as a sustainable location in CS23.

Out of date nature of the policy

10.140 Paragraph 8.12 states that this will be achieved through allocations and that greenfield sites will be allocated for housing where there are sustainability benefits and where land is not of high ecological, landscape or recreational value. No such allocations have been made and as such the 3 potential locations for greenfield development have not been identified on a proposals map as required by paragraph 23 NPPF. The lack of allocations prevents the strategy from being delivered and renders the policy out of date.

- 10.141 The restricted selection of sites (even if allocations had been made) is now inadequate given the much higher housing requirement that cannot be delivered on these limited sites as demonstrated by the need for a much wider range of sites to meet even the 2,200 dpa requirement, let alone the higher 2,923 dpa of the current standard method.
- 10.142 Without an allocations plan, as required by NPPF paragraph 23, this policy represents a very restrictive approach to the location of development of greenfield land which seeks to restrict the release of such land unless there is a shortage on the five year land supply. As an approach to restricting the development of greenfield land, it is inconsistent with the NPPF, which contains no such principle. It is an approach that predates even the first NPPF.
- 10.143 I conclude that the policy is out of date as it has been overtaken by events, is inconsistent in approach with NPPF and I note that this view is also shared by the Committee Report (CD1.7 page 67).
- 10.144 In reaching the conclusion that this policy is out of date, the Committee Report (CD1.7) explains that this policy, alongside CS23 and CS72, was drafted in a more restrictive national policy context of PPS3 which set a national target of 60% of all dwellings to be provided on previously developed land (paragraph 41) as well as local targets and a priority for the reuse of previously developed land (paragraph 36).
- 10.145 I further note that the Council in their statement of case (CD6.4 paragraph 4.17) accept that CS24's Brownfield first approach is not fully reflective of the NPPF.

Weight

- 10.146 I consider the appeal proposal conforms with this policy but given the fact that the policy is out of date I attach little weight to any alleged noncompliance.

The Council's position

- 10.147 In paragraph 4.17 of the Council SoC it is argued that CS24's Brownfield first approach, while not "fully reflective" of the guidance in the Framework is not far off, as the Framework gives support to the reuse of brownfield land for homes (paragraph 117). The Council also refers to Paragraph 118 c), and the claim that the Council can demonstrate a 5.4 -year supply of deliverable housing land.
- 10.148 The Council appear to be confusing the assessment of the up to date nature of the policy with the weight that maybe attributable to the issue by the application of the NPPF.

ix) *Policy CS72*

Compliance

- 10.149 Policy CS72 refers, in part d. of the policy to land "south of Stocksbridge (at Hollin Busk)" as

being safeguarded as open countryside.

- 10.150 Paragraph 12.6 describes what is meant by safeguarding; that it is land “safeguarded in the spatial strategy **as much as** the majority of land that is in the Green Belt.”
- 10.151 The purposes for safeguarding this land is set out in CD3.1 paragraph 12.8. This again describes the land as at Hollin Busk, south of Stocksbridge, providing a visual break between settlements of Stocksbridge and Deepcar. It states that it makes a significant contribution to the character and distinctiveness of Stocksbridge.
- 10.152 Although a requirement of paragraph 23 of the NPPF, this designation is not identified on a proposal map. The area to which the policy applies is uncertain. The wording of the policy is simply “the following locations”.
- 10.153 The policy itself refers to land south of Stocksbridge. The written text differentiates Stocksbridge from Deepcar.
- 10.154 The appeal site is located to the south of Deepcar, not Stocksbridge. Given the approach taken in the policy, recognising the difference between the two settlements, it is not clear that the land identified by the policy includes the appeal site.
- 10.155 Furthermore, as identified in Fig 3 of this proof, Hollins Busk is the area south of Stocksbridge some distance to the west of appeal site.
- 10.156 Turning to the purpose of the policy, which is to provide a visual break between the settlements of Stocksbridge and Deepcar I note the findings of Mr Denney’s analysis of this visual break (CD6.18 Appendix 3) and his conclusion on this issue as (CD6.18 paragraph 8.20) is that:
- Furthermore, it is not considered that the proposals would result in an undermining of the role of the site in providing a visual separation between existing settlement areas. The proposals only extend across part of an undeveloped area, with a clear separation remaining between the proposals to the east and Hollin Busk to the west.”*
- 10.157 I have already highlighted the conclusion of the Councils Landscape Architect (CD1.7 pages 23 to 27) who on page 25 in respect of visual impact states:
- “Broadly, this is that the visibility of the site from the surrounding area is limited, and visual impact is largely confined to a limited range of visual receptors in the immediate vicinity of the site. These are principally residents on nearby streets, as well as highway users on adjacent roads and limited views from public rights of way close to the site.”*
- 10.158 Correctly, this does not identify one of the impacts of the development as being increased views of the development from Stocksbridge.
- 10.159 It is important to note that Paragraph 12.9 of the CS (CD3.1 Page 128) states that protection

of these areas will be achieved through designation as open countryside in the City Sites document and on the SDF Proposals Map. As this document has not been produced and the proposals map not published, the areas of land covered by the policy has not been made clear.

10.160 In respect of the means of implementation of the policy, Appendix 1 of the Core Strategy describes the mechanisms and identifies that the policy will be implemented by making area designations in a future proposals plan (as well as letting land for grazing- a non-planning policy matter). As with the text at 12.9 this clarifies that the policy is somewhat incomplete without the proposals being designated on a plan.

10.161 The targets and indicators of the performance of this policy are set out in Appendix 2 to the Core Strategy and the target is that no land in the countryside areas including land at Hollin Busk Colliery and at Hollin Busk be developed for urban land uses in the period to 2026 (Appendix 2 Core Strategy Targets and Output Indicators (CD3.1 page 215)).

10.162 This target of 2026 ties back to the supporting text for the policy (CD3.1 paragraph 12.8 that:

“Its rural character is greatly valued locally and there is **no need to develop it as new housing can be provided on previously developed land within the urban area”**

10.163 In terms of compliance, firstly it is unclear from the description in the policy and the described function of the area that the appeal site is within this designation. Secondly without the publication of the SDF proposals map (as required by NPPF paragraph 23) there must be a serious question as to whether the protection offered by CS72 is engaged especially as the Core Strategy Key Diagram appears to include the area subject to this policy within the urban area and taking into account the terms of 12.9 and Appendix 1 of the Core Strategy.

10.164 Further, there has been a material change in circumstances in that the Council can no longer meet the housing requirement completely on previously developed land which was the justification for safeguarding this land until 2026 in the policy.

10.165 Furthermore, the general location identified in CS72 land south of Stocksbridge will continue to be safeguarded with the appeal site developed, as it does not perform a significant aspect of the function of providing a visual break between Deepcar and Stocksbridge.

10.166 Taking all these matters, into account, there is real doubt that there is a breach of this policy.

10.167 In any event, if the policy does apply to the site, then the policy is out of date due to changed circumstances and inconsistency with the NPPF.

Out of date nature of the policy

- 10.168 The approach to this policy is set out in paragraph 12.6 of the Core Strategy (CD3.1) which introduces the strategy by reference to the approach to its protection being "much as" Green Belt. The policy consequently "safeguards" land through protection from all development. There is no indication of any form of development that could be allowed, under any circumstances. It is a policy that is therefore stricter than Green Belt. There is however no indication of how these locations have been assessed to have such rare quality. They appear to be simply what remains between the existing built up area and the Green Belt boundary but given a level of protection even higher than Green Belt. This protection, without landscape quality or anything similar is simply anathema to the NPPF.
- 10.169 A further factor is that paragraph 12.8 of the CS (CD3.1 Page 128) states that, at least in 2009 there was no need to develop the land at Hollin Busk, as new housing could, at that time be provided on previously developed land within the urban area. As highlighted in the context of the emerging plan, this is no longer considered to be the case.
- 10.170 Paragraph 12.9 of the CS (CD3.1 Page 128) states that protection of these areas will be achieved through designation as open countryside in the City Sites document and on the SDF Proposals Map, and the consideration of any applications for permission to develop. As highlighted previously the City Sites document has not been produced to provide the clarity of what this policy relates to. Further the policy has been overtaken by events, or more accurately non-events in terms of plan making.
- 10.171 This policy is therefore **out of date** for several reasons. It is inconsistent with the Framework by seeking a level of protection more stringent than Green Belt when the land is countryside and no more. It is inconsistent with paragraph 170 of the Framework that seeks simply that the value of such land is recognised. The policy contains no balance of harms and benefits and doesn't reflect any other aspect of the Framework. Further, the premise of the land not being needed for development, as there were considered to be alternate sites, is now no longer the case. Finally, the policy is at best incomplete, due to the absence of a proposals map and the related City and Sites document that would have provided clarity as to what actual land it relates to, a requirement of NPPF paragraph 23.
- 10.172 The **failure to produce a plan identifying the area** to which the policy applies some 12 years after the adoption of the Core Strategy renders the policy out of date as it has been **overtaken by events/ non-events**.
- 10.173 I note that my assessment is supported by the Committee Report (CD1.7 page 33) that also concludes policy CS72 is out of date for the following reasons:

- a) It is a restrictive policy and in effect places an outright bar on development in the countryside (CD1.7 page 33).
- b) It was adopted within a national planning policy context of restriction (CD1.7 page 33)
- c) It was adopted where there was sufficient land for housing within the district and additional housing land did not need to be found (CD1.7 page 33).
- d) It is inconsistent with the NPPF which does not protect countryside for its own sake but instead requires that all decisions recognise the intrinsic character and appearance of the countryside (CD1.7 page 33).

10.174 In light of the above I conclude that policy CS72 is out of date.

Weight

10.175 This policy is demonstrably out of date for the reason set out above and as such I place very little weight on the claimed breach of the appeal scheme with the policy.

The approach of the Council

10.176 In paragraph 4.19 of the Council's SoC (CD6.4) it states CS72 is a "restrictive policy" when considered against the Framework and as such its weight is reduced. The Council propose a reduced weight because they recognise the policy as being out of date.

10.177 The SoC appears to argue that the policy might still be considered up-to-date and carry weight because CS72's objectives are supported by Paragraph 170 (b) of the Framework which recognises the intrinsic character and beauty of the countryside. However, the "safeguarding" of countryside in CS72 is a total bar to development and as such is materially different from "recognising its qualities" as required by Paragraph 170 b. CS72 simply "prevents" development and as such is inconsistent with the Framework that just requires the character and beauty of the countryside be "recognised" in an overall planning balance.

10.178 The SoC paragraph 4.19 also claims consistency of CS72 with Paragraph 117 of the Framework which is concerned with safeguarding and improving the environment. This is a misreading of paragraph 117 which is in a very generic form and makes it clear that the safeguarding is balanced against meeting the need for homes. In my view this is a very different use of the word "safeguard/safeguarding/safeguarded". One cannot read across "safeguarding" in this context of meeting housing need to be consistent with "safeguarding" in Policy CS72 which makes no concession to meeting the need for homes at all.

10.179 The Council further suggest that policy CS72 is consistent with Paragraph 127 (c) and 130 of the Framework which relate to "Achieving Good Design" as these paragraphs require

development to be sympathetic to local character, history and the surrounding environment and landscape setting. I have already highlighted that these paragraphs refer to sympathetic design and the relationship of development to its surroundings. They are not a policy that seeks to restrict development in the countryside. Policy CS72 is such a policy being a blanket protection of areas not in the Green Belt. It is not concerned with the design of development.

10.180 Lastly the Council suggest that the protection of the site under policy CS72 is consistent with the Paragraph 8 c) of the Framework which recognises that sustainable development should contribute to protection and enhancement of the natural environment. Again, I have highlighted that Paragraph 8 c) cannot be read in isolation to justify the blanket restriction of development in the countryside in the way that is framed in policy CS72. Indeed, even within the terms of paragraph 8 of the Framework itself, it is clear that there is a need to balance all the objectives, which include building sufficient homes, amongst other things. Paragraph 9 goes on to explain the matters in paragraph 8 are not criteria against which every decision can or should be judged. Prioritising one objective in a policy as suggested by the Council is clearly contrary to the Framework.

10.181 In light of the above the Council have not demonstrated that Policy CS72 is up to date or should attract any more than little weight.

d) Conclusion on the compliance, out of date nature and weight of the most important policies

10.182 For the reasons set out above, my position in terms of the individual policies is that they are all out of date for differing reasons and the weight I place on any conflict with them is as set out in the table 1 at the start of this section.

10.183 It is agreed, with the assessment in the Committee Report (CD1.7) that all of the most important policies are inconsistent with the NPPF.

x) Conclusion on the basket of policies

10.184 In conclusion, when considered both individually and together as a 'basket of most important development plan policies', the policies are out of date.

11.0 THE CASE ON BEHALF OF THE APPELLANT

a) Introduction

11.1 This appeal proposal is for the development of up to 85 dwellings including open space and with approval of details of points of access to the site (but not within the site).

11.2 In the earlier sections I have highlighted a number of issues regarding inadequacy of the Council's response to the housing crisis, their poor record of plan making and the result of present and past ad hoc approach to housing delivery in Sheffield. This has led to the wrong type of housing, in the wrong location resulting in the demand for family and affordable housing across the city is not being met. There is a pressing need to start addressing these issues now. There is no case to wait and hope for a new plan, particularly given the track record of the Council.

b) The public benefits of the appeal proposal

11.3 The following provides a brief Summary of the public benefits of the appeal proposal and draws in other proofs of evidence and statements.

i) *Five year land supply*

11.4 It is my evidence that based on a thoroughly investigated supply and the application of a housing requirement based on the urban uplift the Council can only demonstrate a 2.56 years supply of land (CD6.14 SoCG Table 8). There is a massive shortfall and a pressing need to build houses that the Appeal scheme will contribute towards. This carries very substantial weight.

11.5 I have also demonstrated that even taking a very benevolent stance on supply by accepting all of the Council's supply and adding in new permissions, windfall, and stalled and outline sites, the Council will be unable to demonstrate a five year land supply as at 1st April 2021 (CD6.16 page 48 Table 10).

11.6 Even on the Council's evidence it can only demonstrate a marginal 5.4 five year land supply (CD6.14 SOCG Table 1) against the old housing requirement as calculated by the Standard Method. This emphasises the need and weight to be placed on the delivery of housing at this time.

ii) *The delivery of the new housing requirement as calculated by the Standard Method.*

11.7 The pressing need to build more homes is not a short lived matter. From the Council's evidence it is completely unclear how it will meet the future level of completions over the longer term. The fact that the city has to deliver this increase to assist in meeting the Government's target of 300,000 homes a year, requires a significant and urgent response,

the need for which is heightened by the Council's woeful track record in plan preparation and adoption.

iii) The delivery of family housing

11.8 The delivery of family homes on the site attracts substantial weight (CD1.7 Committee Report page 69).

11.9 The Council's Issues and Options consultation (CD3.6 page 25) highlighted the Council's over reliance on student accommodation, stating that:

"we know that we need other types of housing."

11.10 The Council identify (CD3.6 Issues and Options page 26) that:

"In particular, there is a trend for people wanting housing suitable for families to move to Rotherham, North East Derbyshire and Barnsley"

11.11 The Council identify Green Belt release as being a potential solution to meeting this unmet demand stating (CD3.6 Issues and Options Page 57: Option B):

"Green Belt sites would deliver suburban family housing that we know there is a demand for."

11.12 My own analysis of the mismatch of demand and supply (Appendix 1) suggests that there is an acute need for more family housing and that only 25% of future supply will be family housing compared to 80% of the demand being for family housing.

11.13 As I explain earlier, the natural "churn" in the existing stock is not allowing families to access family homes because the existing stock already accommodates households and most households, especially owner occupiers, tend to trade up the size of their dwellings.

11.14 I further note that in introducing the "Urban Uplift" the Government (CD4.3 Government response to the local housing need proposals in "Changes to the current planning system" Updated 1 April 2021) again took the opportunity to emphasize the importance of delivering family housing (CD4.3).

iv) Affordable housing

11.15 The site will provide policy compliant affordable housing contributions, which I consider should attract substantial weight. A position shared with the Council's planning manager (CD1.7 Committee Report page 69).

11.16 The Council have consistently failed to deliver the required level of affordable housing resulting in an increase in the affordability ratio from 2.87 in 1997 to 5.79 in 2020, an increase in the backlog of affordable housing needs from 7,892 in 2013 to 8,386 in 2018 (CD3.12 Table 6.1 line 4) as well as an increase in the overall affordable housing requirement from

729 in the 2013 SHMA to 902 dpa in the 2018 SHMA (CD3.12 table 6.1 last line “Overall Shortfall”).

- 11.17 Mr Stacey’s evidence provides even further evidence of the Councils poor performance in response to the affordable housing problem within the city. He identifies the Housing Register increased by 8,117 households in 12 months to a March 2021 figure of 32,026 households (CD6.17 page 6).
- 11.18 In respect of the impact of Right to Buy Mr Stacey highlights that between 2013/14 and 2019/20, total Right to Buy losses have exceeded total new affordable housing delivery by 564 units. He refers to this as a desperate situation for those in need of an affordable home.
- 11.19 The Council’s response to this increasing needs has been to rely upon their own program of stock renewal and redevelopment, but Mr Stacey highlights that even the Council’s own pipeline represents just 1.4 years of the affordable housing need over the next five years (CD6.17 paragraph 6.24).
- 11.20 Mr Stacey also identifies at a local level (Stocksbridge and Deepcar) the provision of just 3 affordable dwellings in the last 7 years (CD6.17 Paragraph 4.38) and a loss from Right to Buy of 45 dwellings (CD6.17 Paragraph 3.40). He concludes, having considered the situation in Stocksbridge and Upper Don area that there is a substantial need for affordable homes (CD6.17 paragraph 5.14).
- 11.21 Mr Stacey suggest that as the scale of the challenge facing Sheffield is vast then the delivery of 10% affordable housing as part of the proposed development should not be regarded as a ‘drop in the ocean’. He highlights that it is vital to remember that each additional affordable dwelling offers significant, tangible benefits to its occupants, who will benefit from a high-quality new home, suitable for their needs at an affordable price, and with security of tenure. There has been a net underperformance of 5,993 affordable dwellings in Sheffield against the identified needs in the 2013 and 2018 SHMAs, taking into account Right to Buy sales. In this context, Mr Stacey has no doubt that the provision of 10% affordable homes on this site to address needs in Stocksbridge and Sheffield City should be afforded substantial weight in the determination of this appeal (CD6.17 Paragraph 4.45).

v) Open Space

- 11.22 The site will exceed the policy requirement for Open Space of 10% (CD3.8 GOS1 page 38/39) which would require 0.65 ha, providing as it does a Local Equipped Area for Play (LEAP), 1.62 ha of open space and a further 0.44 hectares of SUDS which also has amenity value. This represents some 2.06hs almost 33% of the site and does not include the area set

aside for Biodiversity Net Gain as there is no public access to this part of the site. I attach substantial weight to this provision as did the Planning Manager (CD1.7 Committee Report page 97). The addition of a local equipped area of play will have wider benefits than just for the new residents and will give greater accessibility to existing residents to these types of facility.

vi) Net Biodiversity Gain

11.23 I note from Mr Goodman's proof that the appeal proposal will result in a net gain provided by the 'Revised Illustrative Masterplan (April 2021)' confirmed through assessment using the DEFRA Metric (Version 2) of 7.00 habitat units (a net gain of 53.26%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%) (CD6.21 Appendix 2 Annex k).

vii) Benefits from the Sustainable Urban Drainage

11.24 It should be noted that Mr Harvey highlights the improved water quality and management in water run off rates, as a result of SUDS (CD6.22 paragraph 4.9.21) and this benefit is increased by the second area (CD6.22 paragraph 2.2.3). The SUDS scheme also provides for improved Habitat (CD6.22 paragraph 2.25) and provide benefits in terms of amenity, recreation and wildlife (CD6.3.1.13).

viii) Economic Benefits

11.25 Economic benefits will arise from the scheme through delivering housing (to which substantial weight should be attached), creation of employment opportunities (to which substantial weight should be attached), economic benefits through construction and Council tax benefits (to which substantial weight should be attached), and future occupiers expenditure (to which moderate weight should be attached) (Page 96, Committee Report (CD1.7)).

c) The effect of the proposed development on the character and appearance of the surrounding area.

11.26 Mr Denney (CD6.18 paragraph 8.18) reviewed the relevant application documentation and the relevant policy context, and was satisfied that the proposals were appropriately located, and that the proposed development areas responded to their landscape and townscape context. He states that the involvement of FPCR into the design of the proposals had led to a positive, Green Infrastructure led scheme, responsive to local landscape character and distinctiveness and with regard to local visual amenity.

11.27 In paragraph 6.19 Mr Denney (CD6.18) concludes that the proposed development will have either no effect, or no more than a negligible effect, upon landscapes of acknowledged importance, such as landscapes designated for their National, Regional or local landscape

value, including the Peak District National Park. At a local level, the Sheffield UDP includes Areas of High Landscape Value, and the proposed development does not fall within, or adversely affect, any of these designated landscapes. The UDP also includes an important views designation which it is also confirmed does not apply to this site, nor does the development proposals adversely affect any of those views of acknowledged importance.

11.28 In respect of the highly limited and localised nature of the effects which would arise, Mr Denney does not agree (CD6.18 paragraph 8.20) that the proposals would give rise to unreasonable harm to landscape character or visual amenity, nor would they therefore give rise to unacceptable impacts on the intrinsic character and beauty of the countryside. Furthermore, it is not considered that the proposals would result in an undermining of the role of the site in providing a visual separation between existing settlement areas. The proposals only extend across part of an undeveloped area, with a clear separation remaining between the proposals to the east and Hollin Busk to the west.

11.29 Mr Denney does not consider that the proposals are contrary to any of the landscape and visual policies from the Core Strategy or Unitary Development Plan, which were referenced in the reason for refusal (CD6.18 paragraph 8.21). Nor did he consider that the proposals are contrary to the aims, purposes or requirements of paragraphs 127(c) or 170(b) of the NPPF. The proposed development has been designed in a manner which is sympathetic to local character and history and has appropriate regard to its surrounding built environment and landscape and townscape setting. It also recognises the site's intrinsic character and that of the wider landscape whilst seeking to maintain local character, retain important landscape features and to improve and enhance local biodiversity.

11.30 Mr Denney draws attention (CD6.18 paragraph 8.22) to the fact that with regard to the agreed highly limited and localised nature of the effects, and the advice of the Council's Landscape Architect who did not object to the proposals, and the Planning Officer had concluded that 'there are no adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme'. This Mr Denney concludes was a reasonable and informed conclusion, in line with the findings of the LVA and one with which he would agree.

d) Impact on the visual separation of settlements

11.31 My approach to the part of the refusal referring to separation of settlements is in the context of my previous experience in dealing with such issues most recently in Chesterfield and North East Derbyshire as well as other relevant appeals. I review these briefly below:

- i) ***Land to the north west of Northmoor View, Brimington, APP/A1015/W/19/3223162 (CD5.34)***

11.32 This appeal was granted in 9th August 2019 for up to 150 dwellings on land north west of Northmoor View, Brimington, Chesterfield. As well as concluding (CD5.24 paragraph 19) that the policy seeking to impose a Strategic Gap was manifestly out of date, the Inspector goes on to consider the following in reaching a decision regarding character and appearance:

- a) Landscape harm while not set out in the reasons for refusal was a consideration but that this was “ordinary attractive landscape” and only a portion of the site would be developed leaving a large expanse of land between settlements (CD5.34 paragraph 31).
 - b) While the proposal would result in a marked and permanent change to an open arable landscape which would have a significant visual effect within the site boundaries, this would be the case with any greenfield site, it is not a reason to dismiss the scheme out of hand (CD5.34 Paragraph 32).
 - c) The distance and limited intervisibility, together with the fact that views of the proposal would be seen in the general context of the settlement where a material consideration (CD5.34 Paragraph 34).
 - d) The loss of residents open views across the appeal site would not be unacceptable in normal planning terms (CD5.24 Paragraph 24).
- ii) ***Land South East of Williamthorpe Road and West of Tibshelf Road, Holmewood, APP/R1038/W/20/3251224 (5.30)***

11.33 This appeal granted on 19th October 2020 was for up to 250 dwellings and a specific reason for refusal and issue considered by the inspector was separation of Holmewood and North Wingfield and the extent to which there would be merging of settlements.

11.34 Unlike Stocksbridge and Deepcar, which have evolved as a single continuous urban area and are already joined up both in the valley bottom and for a considerable distance up the valley side, the settlements of North Wingfield and Holmewood in this case are only connected by the ribbon development along Williamthorpe Road (CD5.30 paragraph 47).

11.35 The inspector noted however that experienced from Williamthorpe Road the overall impression when travelling in either direction, is one of a continuous built-up area so that the inspector considered that there is already a fair degree of merging between the settlements.

11.36 Furthermore, the inspector noted (CD5.30 Paragraph 48) that it was also difficult to appreciate a change in identity between the settlements in this location.

11.37 While the inspector notes (CD5.30 Paragraph 49) that there can be no doubt that the proposals would further compound the merger of the two settlements this can be mitigated

by the retention of open space as indicated in the illustrative parameters plan which show how the site could be developed without extending behind all of the ribbon development.

11.38 On this matter the inspector concluded that appeal side of Williamthorpe Road was less sensitive due to the existing connectivity along this stretch of road (CD5.30 paragraph 51) and that while there would be some further merging this was not considered to be significant, nor would it lead to a loss of identity.

iii) Land North of Netherhouse Copse, Fleet, (APP/N1730/W/17/3167135) (6th October 2017) (CD5.35).

11.39 Land North of Netherhouse Copse, Fleet, (APP/N1730/W/17/3167135) was an approval on appeal for up to 423 residential dwellings and a community facility. One of the main issues was the effect of the proposed development on the Local Gap between Fleet, Church Crookham and Crookham Village. The local Gap was defined in the adopted local plan (CD5.35 Paragraph 14).

11.40 In examining the issue of coalescence and separate identity, the inspector took into consideration:

- a) The reduction in distance between settlements (CD5.35 Paragraph 16).
- b) The increase in intervisibility between Settlements (CD5.35 Paragraphs 18 and 21)
- c) The degree to which a proposal reduces the amount of land between settlements that is unaffected by urban influences; (CD5.35 Paragraph 20)
- d) The impact of mitigation; (CD5.35 Paragraph 21)
- e) The perception of leaving one settlement before entering another (CD5.35 Para 19)
- f) The different identities of the two settlements (CD5.35 Paragraphs 22 and 23).

iv) Land West of The Street, Little Clacton (APP/P1560/W/16/3156070) 4th January 2017. (CD5.36)

11.41 This appeal was for Outline permission for residential development of up to 98 dwellings and was allowed. The appeal is of note because even where harm to a "Local Green Gap" (as defined in a development plan CD5.36 Paragraph 9) is caused by a marked change to the character and appearance of the land (CD5.36 Paragraph 16) then this needs to be considered against benefits such as:

- a) Increased public access to public open space (CD paragraph 19)
- b) Enhanced biodiversity (CD5.36 paragraph 19)
- c) Sustainability of the location

d) Proposed mitigation.

11.42 In terms of assessing the impact of a development proposal on the separation of settlements the following considerations should be taken into account:

- a. The degree to which a proposal reduces the amount of land between settlements that is unaffected by urban influences.
- b. The potential for mitigation.
- c. The actual reduction in the amount of land performing the Strategic Gap function.
- d. The reduction in distance between settlements.
- e. The increase in intervisibility between Settlements.

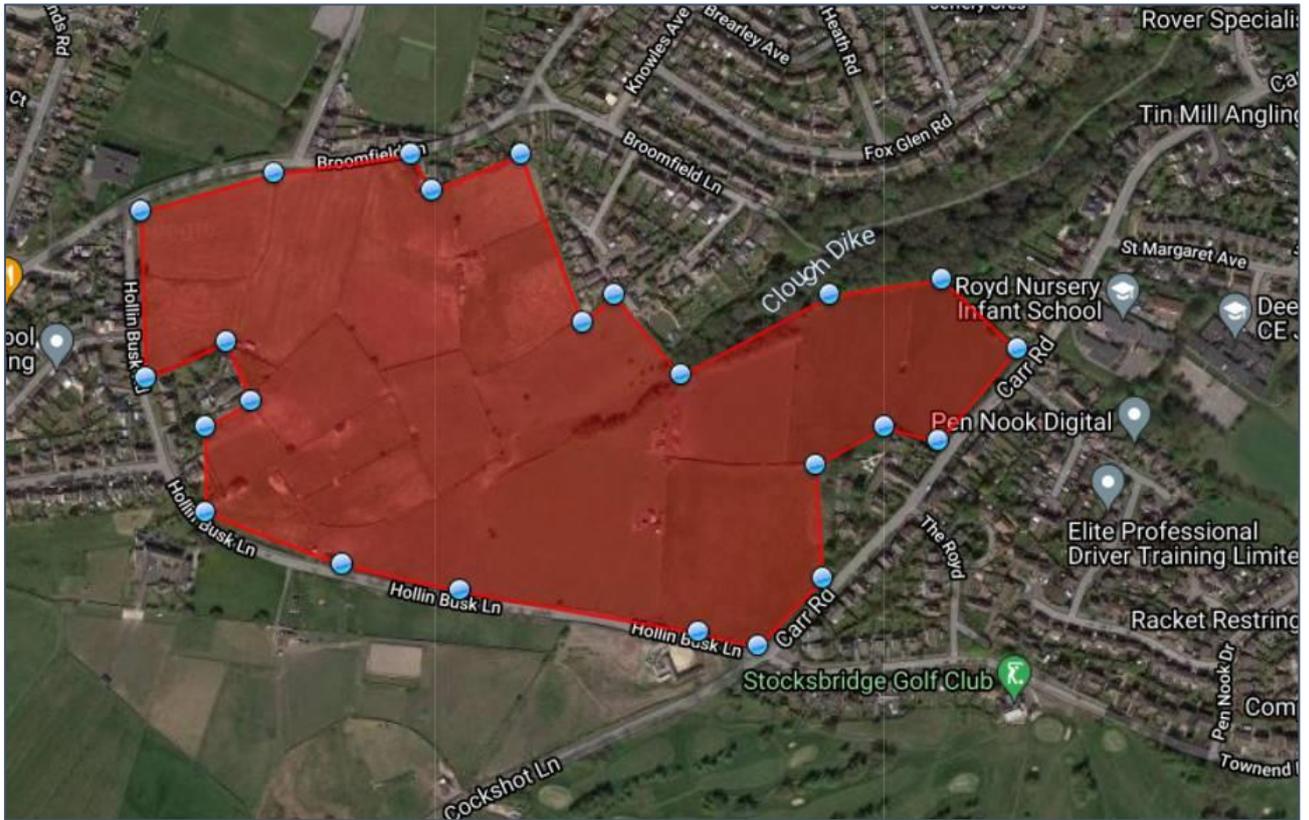
11.43 I have highlighted above the following considerations that can be taken into account in assessing the impact of a development proposal on a gap between settlements and have compared these to the findings of Mr Denney's evidence (CD6.18 Section 7 and Appendix 3). I note however that the position here is rather different. Firstly, Deepcar and Stocksbridge are already joined and so we are only dealing with the southernmost part of these settlements and an area of land along their southern boundary that is not joined up (CD6.18 paragraph 5.14). Secondly, as I have set out in the earlier sections of this proof, this land could have been placed in the Green Belt, one of the functions of which is preventing coalescence and a reasoned decision was taken not to do that because of the nature of the land and the relationship between areas of development, despite a strong lobby for it to be Green Belt. Thirdly the only policy mention of a gap is in the **text** of CS72, not in the policy. In that text land is referred to as a visual break between settlements, but as explained above there is no definition of the land in question as the plan that had the role of doing that job was never prepared.

11.44 It is within that context that I assess Mr Denney's conclusions:

The proposal as an element of the undeveloped area

11.45 Purely in simple plan terms the proposal of 2.52 ha of development represents only 6% (a small proportion) of the wider undeveloped area of 40.66 ha (excluding the built form and Clough Dike) see plan below:

Figure 12. Plan of wider open area



11.46 Again, in terms of simple measurements the gap between Car Road and the nearest property (as illustrated by the line on the plan which is the visible gap between the settlement edges) is approximately 500m the impact of the development (as depicted by the illustrative master plan) would be to reduce this to approximately 370m although the distance between the built form, excluding the open space, would be 450m suggesting a reduction of about 10%. As with the above these are basic measurements, and it is Mr Denney's evidence as to the actual perceived impact which carries far greater weight in determining these issue as highlighted by the appeal cases referred to above.

Figure 13. Illustrative master plan and measurement of visual separation



The degree to which a proposal reduces the amount of land between settlements that is unaffected by urban influences.

11.47 The assessment of the wider site is that the settlement edges are already a consistent element of views when travelling in either direction along Hollin Busk Lane. In this context Mr Denney describes the impact of the new development in that it would be visible at an oblique angle to the direction of travel along Hollin Busk (CD6.18a appendix 3 paragraph 14) and states that:

“The proposed built development is set back within the narrower and contained area of the site. The land which plays the greater role in allowing a perception of separation to arise on this southern edge of the settlement and along Hollin Busk Lane would remain open, retaining the key views between the settlement areas. There would remain an undeveloped landscape with settlement at its edges, as is presently perceived at this part of the southern edges of the settled valley landscape.”

11.48 Mr Denney’s evidence suggest that this wider area, in this location outside of the Green Belt, is all affected by urban influences (CD6.18a appendix 3 paragraph 15) as he describes how the development rates to the existing townscape as follows:

Development would appear well related to and contiguous with the southern peripheral areas of Deepcar so as to read as being part of the established townscape pattern of Deepcar and not as development protruding into the wider countryside or interrupting the visual break. (CD6.18a Appendix 3, para 15)

11.49 In respect of the degree of urban influence that is apparent within the wider area Mr Denny also highlights:

It is between these settlement areas, along Hollin Busk Lane, that a ‘visual break’ can be perceived, albeit that existing development to the south of Haywood Park can also be seen in these views and settlement edges are already a consistent element of views when travelling in either direction along Hollin Busk Lane.”

11.50 I conclude that the appeal site will not reduce the amount of land between settlements that is unaffected by urban influences.

The potential for mitigation.

11.51 Mr Denney states that the local landscape character has been recognised and appropriately taken into consideration in terms of scale and location of development and the location of open space and the landscape structure and mitigation proposals. He states that the appeal proposals accord fully with the aspirations expressed in the NPPF paragraph 127(c) ‘Achieving well-designed places’ and paragraph 170 with regard to recognising the intrinsic character and beauty of the countryside, in that they would maintain local character, retain important landscape features and seek to improve and enhance local biodiversity. (CD6.18a para 6.27)

11.52 The impact of mitigation on various viewpoints would reduce to minor or negligible effects upon the maturity of planting for Public Rights of Way (CD6.18a paragraphs 7.9 and 7.10) and Roads (6.18 paragraphs 7.14 and 7.17),

11.53 The effects on visual amenity Mr Denney states (CD6.18 paragraph 7.25) would be further reduced following the maturation of the mitigation proposals included as part of the development, as can be seen by review of the Year 15 visualisations at CD6.18 Appendix 6. Mr Denney concludes that on this basis, there appears no logical justification for the conclusion that there would be ‘unreasonable’ harm to visual amenity (CD6.18 paragraph 7.26). It is also noted that the inclusion of existing landscape features within the site as green infrastructure, in conjunction with the proposed enhancements, will offer a direct and positive response to the priority landscape guidelines within the Enclosed Gritstone Uplands LCT which provide different priorities for each of the landscape types in the Dark Peak Yorkshire Fringe. Mr Denney states that the proposed development embraces these guidelines, which includes amongst other things to ‘Protect and maintain historic drystone walls’. (CD6.18 para 6.26)

The actual reduction in the amount of land performing the Strategic Gap function & The reduction in distance between settlements.

11.54 Mr Denney states CD6.18a Annex 3 paragraph 17 states:

*“It is acknowledged that the appeal proposals would be visible lying within part of the currently undeveloped land and seen from the edge of Stocksbridge at Hollin Busk, but that **the visual break would remain**. The LVA assessed an effect on visual amenity for road users on Hollin Busk Lane of Moderate-Minor, reducing to Minor at 15 years post completion. It is clear from this analysis and the visualisation that there would remain a substantial and effective physical gap between these two areas of the local townscape and that the perception of leaving Hollin Busk and travelling through an area of countryside towards another settlement area would also be retained.”*

- 11.55 In his evidence (CD6.8 Paragraphs 7.32 to 7.34) Mr Denney identifies viewpoints 5, 10 and 12 and visualisations from location 1 to demonstrate that there would remain a physical gap between these two areas of the local townscape and that the perception of leaving Hollin Busk and travelling through an area of undeveloped land along the settlement edges would, nonetheless, be retained. He concludes that the objective of retaining a visual break between these two areas of settlement of would not be undermined by the appeal proposals and the proposals were carefully and sensitively constrained with this objective in mind.

The increase in intervisibility between Settlements.

- 11.56 Mr Denney highlights that the whole of this area is influenced by the settlement edges (CD6.18a appendix 3 paragraph 14).
- 11.57 There are existing views between the last few modern properties on the eastern side of Carr Road and the properties on Hollin Busk Lane and Hollin Busk Road. While the southern part of the development will also be visible from the properties on Hollin Busk Lane and Hollin Busk Road this will not increase visibility between these two viewpoints. Mr Denney describes this view as follows:

*“Beyond this, at Location 6 (Table A3.2), an open aspect is again experienced and existing dwellings which denote the southern edges of Deepcar south of Royd, appear at a similar elevation within the view in the direct line of travel. The appeal proposals would appear within this view and subsequent views as road users travel eastwards, being seen across the open land along the developments southern edge. However, the proposed development, located to the north of Hollin Busk Lane, lies on land which drops in elevation towards the valley bottom, and **the new built form would replicate the townscape pattern and character of a line of existing properties which already appear within this view, extending from the junction between Royd Lane and along Carr Road to the north.**”*

- 11.58 The assessment concludes (CD6.18 Annex 3 paragraph 17) that the objective of retaining a **visual break between these two areas of settlement of would not be undermined by the appeal proposals** and would be retained and the appeal proposals would appear as a natural continuation of historic settlement expansion up the southern valley side.

Conclusion on the issue of separation of Settlements

- 11.59 I conclude in line with Mr Denney’s assessment of the appeal proposal that the location of it

would not undermine the objective of retaining a visual break between these two areas of settlement as this would be retained (CD6.18 Appendix 3 paragraph 17)..

e) The effect of the proposed development on the special interest of nearby heritage assets.

- 11.60 Mr Bourn undertakes an assessment of the significance and setting of Royd Farmhouse and the Barn. In his Summary Proof (CD6.19b paragraph 3.1) he identifies the significance of Royd Farm resides primarily within its vernacular architectural and historic interest as an example of a 17th and 18th century farmhouse. The significance of the adjacent listed barn and outbuildings also primarily resides in their architectural and historic interest as examples of rural vernacular agricultural architecture. The historic interest of the Royd Farm group of buildings overall, also resides in them being part of a hillside hamlet located on or near the spring line which evolved prior to the advent of industrialisation and the expansion of Stocksbridge and Deepcar.
- 11.61 In respect of the setting Mr Bourn concludes (CD6.19b paragraph 3.20) that the farmhouse and barn have a shared setting. The core of the setting of the listed buildings is their gardens, Carr Road to the east of the farm complex and the older buildings of Royd that form the core of the original hillside settlement. The proposed development will have no effects on these aspects of the setting and its contribution to the significance of the two listed buildings.
- 11.62 Mr Bourn states (CD6.19b paragraph 3.3) that the appeal site is located within the setting of Royd Farmhouse and the barn. This historical functional association has a positive contribution to the significance of the farmhouse and barn.
- 11.63 The appeal site and Royd Farm are no longer in joint ownership and the connection of purpose between the appeal site and heritage assets is no longer applicable, although the historical connection is acknowledged (CDE6.19b paragraph 3.4).
- 11.64 Mr Bourn has assessed the views out across the appeal site from the listed buildings, and concluded these views have a relatively limited contribution to the significance (CDE6.19b paragraph 3.5).
- 11.65 There are views of the listed buildings from within the appeal site which have a positive contribution to the significance of the buildings (CDE6.19b paragraph 3.6).
- 11.66 Royd Farmhouse and the adjacent barn can be seen as an observer travels along Hollin Busk Lane toward the junction of Hollin Busk Lane and Carr Road. Mr Bourn states that while this view does have a positive contribution to the significance of the two listed buildings, this contribution is considered to be limited due to this inability to discern the architectural

interest. In this view, Royd Farm is also seen in the context of the 1970s housing that is on the east side of Carr Road which remains more prominent in the views than the listed buildings themselves (CDE6.19b paragraph 3.7).

- 11.67 Mr Bourn assesses views from further afield are considered to not contribute to the significance of the listed buildings (CDE6.19b paragraph 3.7).
- 11.68 In reaching his assessment of the effect of the proposed development Mr Bourn states (CDE6.19b section 4) that the appealed proposed development has been designed so as to minimise the impact of the scheme on Royd Farmhouse and barn (CDE6.19b paragraph 4.1).
- 11.69 This includes mitigation such as the separation offered by a rectangular field that lies outside of the red line area of the scheme and boundary planting with native hedgerow with occasional trees, which as they mature will filter views of the houses from the barn (CDE6.19b paragraph 4.2).
- 11.70 Mr Bourn highlights the changes to the illustrative layout of the scheme in the area to the west of the rear of Royd Farm which has removed houses that were originally proposed to the west of the farmhouse and replaced them with an area of open space will retain a visibility cone from the rear of Royd farmhouse and its garden through the development to the wider countryside and the built up edge of Hollin Busk/Stockbridge to the west of the appeal site (CDE6.19b paragraph 4.3).
- 11.71 The parameter plans note that the scale and detail of the dwellings will reflect that of the heritage assets, which, whilst not presenting a pastiche which would undermine Royd Farm, carefully extends its vernacular vocabulary (CDE6.19b paragraph 4.4).
- 11.72 In relation to views of the listed buildings from the wider setting, Mr Bourn states that currently the buildings are not experienced or visible in any material way as an observer moves south along Carr Road due to the existing screening from tall trees. Consequently, while the scheme will be a clear change in this aspect of the setting, the proposed development will not reduce the appreciation of the designated heritage assets as experienced from travelling south along Carr Road (CDE6.19b paragraph 4.5).
- 11.73 The views of Royd Farm from Hollin Busk Lane from the west will be changed by the proposed development which will obscure views of the two designated heritage assets along Hollin Busk Lane. However, the views from Hollin Busk Lane are not a fundamental aspect of the design or function of the farmhouse or barn and are an incidental aspect of relative proximity rather than an intended or designed view. Consequently, while the blocking of the

view of Royd Farmhouse and barn does have an adverse effect on the appreciation of their significance from the lane, this Mr Bourn states is a minor effect CDE6.19b paragraph 4.6).

- 11.74 Mr Bourn concludes that for the reasons as outlined above and in section 4 of his Summary Proof (CD6.19) the proposed development is considered to have **a less than substantial harmful effect on the significance of Royd Farmhouse and the adjacent barn**. This effect is considered to be in the **lower ranges of the less than substantial harmful effect**, a conclusion that the Committee Report agreed with. Therefore, paragraph 196 of the NPPF is the planning test that should be applied in this instance, not paragraphs 194 and 195, as reason for refusal 1 refers to, as these address an effects that equates to substantial harm. That is, the Inspector, will need to balance the harm to the significance of Royd Farm and the adjacent barn against the public benefits of the scheme. As per paragraph 193 of the NPPF, and in line with case law, the Inspector will need to give great weight to the conservation of the two heritage assets CDE6.19b paragraph 4.7).
- 11.75 In paragraph 4.8 (CDE6.19b) Mr Bourn undertakes a review of the UDP policies and highlights that the Sheffield Unitary Development Plan policies BE15, BE19 and LR5 state that proposals which do not preserve the character or appearance of listed buildings and their settings will not be permitted. He highlights his review of these policies in paragraph 2.18 (CD6.19), that the Sheffield UDP policies do not refer to the need to balance the harm to heritage assets against the public benefits of the proposed development as required by the NPPF. However, as per *City & Country Bramshill Ltd v Secretary of State for Housing Local Government and Communities, Hart District Council, Historic England & The National Trust for Places of Historic Interest or Natural Beauty EWCA Civ 320 (CD5.7)*, para 87, Local Plan policy should be read alongside NPPF. The UDP policies are drafted such that there is effective blanket refusal on any proposals that cause any harm to the character and setting of a designated heritage asset. However, NPPF paragraphs 193-196 allows for the grant of planning permission where there is harm (including proposals that do not preserve the character of listed buildings and their settings) where the tests set out in NPPF paragraphs 194-196 are applied.
- 11.76 Mr Bourn states CDE6.19b paragraph 4.8) that in his view that, as the proposed development results in less than substantial harm to the significance of Royd Farmhouse and the adjacent listed barn & outbuildings, as long as the decision-maker has followed the process outlined in paragraphs 193-196 of the NPPF, and the public benefits outweigh the harm (which has been given considerable weight), then the proposed development should not be resisted due to the terms of UDP policies BE15, BE19 and LR5. He highlights that this planning balance

is to be undertaken by myself.

11.77 In respect of the Barn approximately 15m to the rear of 15 The Royd Mr Bourn notes (CD6.19b paragraph 5.1) that the appeal site is considered not to contribute anything to the significance of this barn as there is no intervisibility or co-visibility between the appeal site and the asset. He concludes as the proposed development will not result in a harmful effect on the character and significance of the barn or its setting, the proposed development is not contrary to NPPF section 16 or UDP policies BE15, BE19 and LR5.

11.78 In his final conclusion Mr Bourn concludes (CD6.19b paragraph 6.1) that he does not consider that the historic environment provides a constraint to developing the site. **The harms are at the lower end of less than substantial harm.**

f) Conclusion on paragraphs 11 and 196 of the NPPF

11.79 In the sections above I have demonstrated that the basket of policies most important to determine this appeal are out of date because they are either inconsistent with the NPPF, overtaken by events or both.

11.80 I have also demonstrated in my separate evidence on the five year housing land supply that the most important policies are also out of date by virtue of the fact that the Council cannot demonstrate a five year supply of deliverable housing sites (NPPF paragraph 73)

11.81 Before the application of the “tilted balance in Paragraph 11 d ii), I have to consider if the application of the policies in the Framework identified in footnote 6, that seek to protect areas or assets, or particular importance provide a clear reason for refusal in accordance with Paragraph 11 d i).

11.82 In this case Mr Bourn in his evidence (CD6.19), summarised above, has concluded that the appeal proposal will cause less than substantial harm, at the lower end of that category of harm (CD6.19 paragraphs 4.46, and 5.18 – 5.22), to the setting of the Listed Farmhouse and barns.

11.83 In this case, and in accordance with paragraph 196 (NPPF) I am required to weigh this identified harm against the public benefits of the proposal.

11.84 I have listed the public benefits at the start of this section, and they are significant, nevertheless I give great weight to the less than substantial harm caused to the setting of the listed Farmhouse and barns. In undertaking this initial assessment, I have not engaged the “tilted balance”. I have nevertheless assessed on a level playing field the benefits, including the delivery of family and affordable housing as well as the public open space and significant Biodiversity Net Gain in my view clearly outweigh the harm to the significance of the listed

building, caused by development in its setting.

11.85 Having undertaken this assessment, I conclude that application of policies in Framework (in this case paragraph 196) does not provide a clear reason for refusal. I can therefore go on and consider the appeal proposal under part 11 d ii).

g) New policies introduced by the Council now considered relevant to the determination of the appeal.

i) Policy CS47

11.86 As part of the negotiation of the SoCG the Council has now indicated that it wishes to rely upon Policy CS47 as part of the justification for dismissing this appeal.

11.87 CS47 was not referred to in the reasons for refusal or the Councils Statement of Case (CD 6.4)

11.88 The Committee Report (CD 1.7) states:

Core Strategy Policy CS47 relates to ‘Safeguarding of Open Space’. The Core Strategy does not make land allocations and the application site does not fit in to any of the formal or informal categories of open space as defined in paragraph 9.26 of the Core Strategy. Policy CS47 cannot therefore apply to the application and the scheme cannot be assessed against it.

11.89 This policy is different from LR5 as it relates to “Open Space” and not “Open Space Areas”.

11.90 It is agreed (CD6.7 SoCG Paragraph 6.68?) that the appeal site is not open space in terms of the definition set in the NPPF. As such this CS policy simply does not apply to the appeal proposal. CS 47 is in effect the local interpretation of NPPF 97 and what the NPPF calls open space.

11.91 Paragraph 9.26 of the Core Strategy (CD3.1) states that in order to be implementable the policy requires explicit definitions. The approach in CS47 relates closely to that in paragraph 97 of the NPPF in that public access is a key part to the definition.

11.92 The appeal site does not fall within any of these definitions of open space in the context of CS47. The definition does include the following:

“accessible countryside in urban fringe and rural areas – including woodlands, agricultural land with public rights of way and publicly accessible areas with a right to roam;”

11.93 It is agreed in the SoCG (CD6.7 Paragraph 6.6?) that the appeal is “inaccessible” and that site contains no Public Rights of way. It does not have a right to roam as such this policy is not a proper consideration in the determination of this appeal.

11.94 Even if the policy were to be considered relevant the proposal would be acceptable for the

following reasons:

- a) It would not result in a quantitative shortage of either informal or formal open space in the local area as the appeal site is farmland and not formal or informal open space.
- b) It would not result in the loss of **open space** that is of high quality or of heritage, landscape or ecological value this is because the site itself is not only not open space, but also does not itself possess heritage, landscape or ecological value. Its role as a setting is a different matter and covered anyway by other policy as discussed.
- c) People in the local area would not be denied easy or safe access to a local park or to smaller informal open space that is valued or well used by people living or working in the local area as the appeal site is neither of these; or
- d) it would not cause or increase a break in the city's Green Network as the green network is not broken by the appeal site as it continues to run down Fox Glen.

11.95 The balance of the policy referring to replacement, or surplus, or development being for ancillary open space uses are simply matters not sensibly applicable to farm fields with no access of this nature. How does one sensibly determine surplus or replacement for example? This just further underscores the inapplicability of the policy.

11.96 I conclude, in agreement with the Committee Report (CD 1.7), that the appeal site does not meet any of the criteria for the application of this policy and even if it did then it would be acceptable in the terms of this policy.

ii) Policy CS63

11.97 As part of the negotiation of the SoCG the Council have also now indicated that they wish to rely upon Policy CS63 as part of their justification for dismissing this appeal.

11.98 CS63 was not referred to in the reasons for refusal or the Councils Statement of Case (CD 6.4)

11.99 The Committee Report (CD 1.7 page 34) states:

“Policy CS63 contains a requirement for preference to be given to development of previously developed land where this is sustainably located, this goes beyond the NPPF which does not advocate a brownfield first approach so this element of policy CS63 cannot carry full weight.”

11.100 I further note that the assessment undertaken in the Committee Report (CD 1.7) was that the appeal proposal was acceptable under the terms of this policy and others that sought to achieve sustainable development as it states on pages 59/60:

“In relation to sustainability, the applicant’s Design and Access Statement also states that

*there are opportunities to incorporate sustainable design and construction techniques, such as using renewable/sustainable sources in construction, use of permeable surfaces as part of a sustainable drainage strategy, potential grey water harvesting, photovoltaic panels and high levels of insulation. **It is therefore considered that a scheme can come forward at the reserved matters stage which complies with the requirements of Core Strategy policies CS63 (responses to climate change), CS64 (climate change, resources and sustainable design of developments) and CS65 (renewable energy and carbon reduction). All of these policies, with the exception of the element of CS63 which requires a brownfield first approach, carry weight in the decision making process.***

11.101 In respect to Housing developments paragraph 11.2 (CD 3.1) explains that to help reduce the expected impact of development on climate change, appropriate location and density of development are provided for housing in terms of policy CS23 and CS26.

11.102 As highlighted earlier while policy CS23 is out of date the appeal proposal is in accordance with the locational criteria in part ii) as it is adjacent to Stocksbridge/Deepcar.

11.103 In respect of policy CS26 the Committee Report (CD 1.7 page 59) concludes that:

“The illustrative masterplan indicates that the scheme will achieve a density of 31.8 dwellings per hectare (based on the net developable area), this is at the lower end of the acceptable range of 30-50 dwellings/ha but does comply with Core Strategy Policy CS26”

11.104 It is noted that the changes to the Illustrative master plan presently shows 83 dwellings being accommodated on 2.52 ha (net developable area) which is a density of 32.9 dph.

11.105 The appeal proposal meets with the locational and density requirements of the Core Strategy as required by CS23 and 26, furthermore it delivers on the other action points in CS63 as follows:

g. It is located out of a flood risk area and has been designed to eliminate unacceptable flood risk by incorporation of a sustainable drainage system.

i. It will adopt a sustainable drainage system.

j. It will result in a net gain of 7.00 habitat units (a net gain of 53.26%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%) by creating an environment that promote biodiversity,

11.106 In respect of part h of CS63, this simply requires that preference be given to development of previously developed land where this is sustainably located. In respect of how this “preference” is to be interpreted Appendix 1 Implementation of the Core Strategy Policies (CD3.1 page 166) refers to other Core Strategy Policies including CS23 and CS26 which I have identified the appeal scheme conforms to in terms of location and density.

11.107 If the Council is now seeking to interpret this “preference” as a “brownfield first” approach (like the former PPG3 which formed the policy background to the Core Strategy) then this is

clearly an out of date approach, which would, as the Committee Report accepts, render the policy out of date.

h) Conclusion of the Appellant's case

11.108 The City Council has failed to respond to the housing crisis. The last housing allocations were made some 23 years ago to meet a need which was 37% of that now required and these allocations were in any event only to meet a need up to 2001.

11.109 While the Core Strategy was adopted in 2009 and considered how a higher housing requirement might be met, this was still just 42% of the current requirement and the Council failed to produce the supporting plans which would allocate sites or define areas of restraint such as to give effect to CS72. This renders many of the plan's strategies out of date. Many of both the UPD and Core Strategy Policies are also considered out of date as they do not conform with the NPPF.

11.110 This has, in my view resulted in a lack of a five year land supply, which is exacerbated by the Urban Uplift in Step 4 of the requirement.

11.111 This lack of an effective housing policy has not just resulted in a poor level of supply, but also a supply that does not meet the type or location of housing that is needed in the city.

11.112 The resulting pattern of development caused by the Council's ineffective plan making has is significantly skewed in terms of both past and future provision with 75% of provision in the last five years (Appendix 1 paragraph A1.2) and 72% of future provision being student accommodation or apartments (Appendix 1 paragraph A1.16). This is significant mismatch when compared to demand which is 80% for housing (Appendix 1 paragraph A1.19).

11.113 The approach has (and will be for the next five years at least) been focused on the City Centre and City Centre West, leaving unmet demand in most other locations.

11.114 The impact on the provision of affordable housing provision has been a loss of in the number of affordable housing (CD6.17 paragraph 7.4) in the face of an increasing demand and the parlous state of forward supply pipeline equate to just 1.4 years' of affordable housing need over the next 5 years (CD6.17 Paragraph 7.7). The delivery of affordable dwellings under the Councils' other initiatives do not come close to addressing the ongoing loss of affordable stock. This record of delivery and the diminishing stock of affordable housing should be viewed in the context of the fact that at 25 March 2021 there were a total of 32,026 households on the Housing Register with an identified need for an affordable home in Sheffield. These are real people, in real housing need, now (CD6.17 paragraph 7.6).

11.115 The current situation would have needed addressing urgently anyway, but the advent of the

Urban uplift in December 2020 has increased the pressure for Sheffield to start addressing these serious shortfalls in its housing strategy and this cannot be left to be addressed through a much promised but never emerging development plan containing housing allocations.

- 11.116 What is clear from the Issues and Options consultation is that even to meet the much lower 2,200 dpa (40,000 dwellings) and address the issues for family and affordable housing, then there would most likely need to be release of Green Belt. To do this would require an assessment of non-Green Belt sites like the appeal site, as part of the demonstration of exceptional circumstances. Green Belt release being effectively the last resort in NPPF terms.
- 11.117 Against this background it is my assessment that the basket of policies most important for determining the appeal is out of date. Both this and the lack of a five year land supply are separately able to trigger the tilted balance in paragraph 11 d.
- 11.118 Before moving to paragraph 11 d ii) it is important to establish if there are “clear reasons for refusal” under part 11 d i). This assessment goes beyond just identifying if footnote 6 policies are engaged but requires them to be applied and assessed.
- 11.119 In this case the Council is arguing that there will be substantial harm to the listed building by virtue of the proposed development and as such paragraph 195 of NPPF is engaged and this results in there being clear reasons for refusal.
- 11.120 Mr Bourn’s evidence (CD6.19) is clear and consistent with officers at the Council when appraising the application. The development represents less than substantial harm to the significance of the listed building. Indeed, Mr Bourn says that it is at the lower end of this category of harm (CD6.19 paragraph 5.22). As such it is my assessment, consistent with officers of the Council and the Committee Report that this does not represent a clear reason for refusal in terms of paragraph 11 d) i) (NPPF). This is because paragraph 196 (NPPF) requires that this should be weighed against the public benefits of the proposal.
- 11.121 In weighing the benefits highlighted above, against the less than substantial harm to the significance of the listed building, to which I give great weight, I reach the conclusion that in the circumstances of this case, the benefits are substantial and that they outweigh the less than substantial harm identified by Mr Bourn in his evidence (CD5.19 Paragraph 5.22).
- 11.122 In situations where the policies in the NPPF (in this case 196) do not provide a clear reason for refusal, then the tilted balance of paragraph 11 d ii) is applied and permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

That is an exercise I undertake in this section 13 of the proof.

11.123 I consider the landscape impact, the impact on the separation of the two parts of the urban area and Mr Denney's evidence in section 11 and I note the conclusion of Mr Denney (CD6.18 Paragraph 8.16):

"With regard to the highly limited and localised nature of the effects which would arise, it is not agreed that the proposals would give rise to unreasonable harm to landscape character or visual amenity, nor would they therefore give rise to unacceptable impacts on the intrinsic character and beauty of the countryside. Furthermore, it is not considered that the proposals would result in an undermining of the role of the site in providing a visual separation between existing settlement areas. The proposals only extend across part of an undeveloped area, with a clear separation remaining between the proposals to the east and Hollin Busk to the west."

11.124 I consider that even without the tilted balance in paragraph 11 d ii) being applied the appeal proposal meets the locational criteria of the plan, and those policies identified as being relevant if their application. As such the appeal proposal is broadly consistent with these aspects of the development plan policy.

11.125 Notwithstanding the above, it is clear that the basket of policies is out of date and there is a significant challenge for the Council in meeting its housing needs, including its needs for family and affordable housing. It is also undisputed that the development will deliver Biodiversity Net Gain and additional informal open space and local equipped area of play. As such when the tilted balance is applied then this strongly supports the appeal proposal, as I describe in the final main section of this evidence.

12.0 ISSUES RAISED BY OBJECTORS

a) Highways

- 12.1 It is agreed with the Council's Highway Services in the SoCG Highways (CD6.10), the proposed access layout is considered to represent an appropriate solution in highway design terms (including visibility) and safety for all users.
- 12.2 As agreed with the Council's Highway Services in the SoCG Highways (CD6.10), there have been no recorded accidents within the vicinity of the proposed site access or Royd Nursery Infant School within the latest five-year period.
- 12.3 The proposed access will displace a small number of parking opportunities for cars from Carr Road at school arrival and departure times. However, these can be safely accommodated without increasing congestion elsewhere on Carr Road, Coultas Avenue, St Margaret's Avenue or the new residential site access road where cars can park for short term drop-off or collection of pupils.
- 12.4 The Council's Highway Services have no objection to the proposed site access and the Officer's Report (CD1.7) concludes that the siting and design of the proposed site access is acceptable, and this is reflected in the SoCG Highways (CD6.10).
- 12.5 Mr Irwin reviewed the impacts of the development traffic have been assessed at the Carr Road / Manchester Road junction and having reviewed the changes to the baseline data in the local area he concludes that the 2016 turning count surveys at the junction provide a robust and valid baseline on which to assess the capacity of the junction (CD6.20b). Given this, he considers that the capacity of the junction is more likely to be greater than shown in the Transport Assessment (CD1.23b). Mr Irwin states that these findings of the updated assessments do not alter the conclusion that was drawn.
- 12.6 Mr Irwin states (CD1.23b) that he does not consider this level of impact to be significant (being within the scope of daily variation to traffic flows), and that he does not consider it can be deemed to be a severe impact within the context of paragraph 109 of the NPPF (CD4.1).
- 12.7 The developer will provide a s106 contribution for the installation of additional MOVA sensors across Manchester Road and Carr Road, so that Carr Road can be incorporated into the Manchester Road/Vaughton Hill junction software and additional inputs to be configured into the MOVA system to provide bus priority for buses on all approaches to the junction including Carr Road.
- 12.8 It is agreed with the Council's Highway Services in the SoCG Highways (CD6.10), that the improvements gained through the new signal control strategy will more than offset the limited

impact of the development traffic through this junction. The assessments undertaken have used a combination of robust assumptions that mean that this conclusion is sound, and the impacts of the development traffic are acceptable.

- 12.9 It is further agreed by the Council's Highway and Traffic Signal Team, that the improvement measures will more than offset the development's limited impact at the junction (CD6.10) and will provide material benefit to the capacity of the local network.
- 12.10 In respect of sustainable accessibility and public transport Mr Irwin considers that there are a range of local services and amenities that lie within guideline walking distance and convenient cycling distance of the development site. In particular he considers that the proximity of the various schools is highly beneficial and it is clear that future residents will have the opportunity to walk their children to school (CD6.20b Paragraph 1.17).
- 12.11 Mr Irwin states (CD6.20 Paragraph 1.18) that future residents will have the option of using public transport for journeys. He concludes (CD6.10 paragraph 6.21) that future residents will be able to use sustainable modes of transport for a range of key journey purposes.
- 12.12 It is also agreed with the Council's Highway Services that the site is appropriately accessible to a range of facilities on foot and has acceptable access to public transport services that are sufficiently frequent and attractive in terms of timetable and destination.
- 12.13 I note Mr Irwin conclusion (CD6.20 paragraph 1.20) that the delivery of the appeal development will not result in unacceptable highway safety impacts or result in a severe impact within the context of Paragraph 109 of the NPPF (CD4.1) and that this conclusion is as drawn by the Officer's Report (CD1.7) and agreed with the Council's Highway Services in the SoCG Highways (CD6.10).

b) Ecology

- 12.14 FPCR Environment & Design Ltd (FPCR) have completed extensive ecological survey work prior to submission of the planning application and during determination of the planning application. This survey work (CD1.14 and CD1.17 a-c) was completed over the relevant survey periods in 2016 – 2017. To assist the Inspector determining this appeal further ecological survey work has been completed during the appropriate surveys period in 2020 – 2021 (CD6.21 appendix 2).
- 12.15 The only statutory designated sites where potential effects of the proposals were considered likely are the South Pennine Moors Phase 1 Special Protection Area (SPA) and the South Pennine Moors Special Area of Conservation (SAC). The Dark Peak SSSI forms one of the underlying SSSI of these designated sites. These designated sites are situated 3.6km west

of the Appeal Site.

- 12.16 Sheffield City Council (SCC) have completed the screening stage of a Habitats Regulation Assessment (HRA) (CD2.25) and concluded that 'likely significant effects' to the conservation objectives of these sites, from the proposals alone or in combination can be discounted. This is a position agreed with Natural England.
- 12.17 Fox Glen Local Wildlife Site (LWS) is situated on the northern boundary of the Site. The only direct effects to this locally designated site arise through the construction of an open drainage run to Clough Dike. This drainage run has been positioned to avoid sensitive areas of the woodland and designed to complement existing woodland habitats (CD6.21 paragraph 6.7 to 6.13).
- 12.18 To minimise potential effects during the construction period avoidance and protective measures are outlined in the Draft Construction & Environmental Management Plan (CEMP) (CD6.22 Mr Harvey's Proof Appendix H) and over the operational period, control measures provided in the Site balancing facilities would avoid effect to Clough Dike or Fox Glen. These avoidance and protective measures have been assessed in the Water Framework Screening Assessment that was submitted to SCC over the determination period (CD1.17c). This document concludes the development is unlikely to affect the ecological value of Clough Dike, ecological receptor within Clough Dike or other downstream receptors.
- 12.19 Connectivity from Fox Glen to other LWS's north, east and west of Fox Glen is restricted by the existing urban environment. The proposals have been carefully designed to maintain and enhance connectivity to other LWSs located to the south of the Site, and through the application of such measures isolation of Fox Glen has been assessed as unlikely (CD6.21 paragraphs 6.19 to 6.22).
- 12.20 Fox Glen (LWS) is an urban woodland with a well-defined and well managed network of footpaths, which we understand are maintained by Sheffield City Council's Parks department. This woodland is currently subject to recreational use and SCC consider the woodland to provide a recreational resource. Whilst some increase in recreational use is expected, any minor increased use is unlikely to materially affect the conservation status of the woodland (CD6.21 paragraphs 6.24 to 6.27).
- 12.21 The Site comprises five species-poor semi-improved grassland field compartments, managed by cattle grazing and hay cutting and separated by dry-stone walls. Other habitats present include buildings, dense/continuous and scattered scrub, hedgerow, fence lines, coniferous tree lines and broad-leaved trees. Two veteran ash trees are present to the north

west of the Site on land retained in the Green Infrastructure (GI). No works are proposed in the root protection area of these Veteran trees as recommended by Natural England (NE) and an appropriate buffer from development will be maintained. Therefore, the proposals will not affect the conservation value of these trees (CD6.21 Appendix 2 Annex E).

- 12.22 No suitable breeding habitat for great crested newts has been identified within a 500m radius of the Site. The completed survey work has not recorded the presence of badger, reptiles, water clawed crayfish, or water vole. The invertebrate scoping survey did not record any species of principle importance and assessed the site as being of low value for invertebrates. Consequently, the presence of these species has not been identified as ecological constraints to the development (CD6.21 paragraph 4.33).
- 12.23 The presence of a bat roost within buildings or built structures has not been identified as a constraint to demolition and development of the Site. Tree T1, located adjacent to the Site and identified as providing 'moderate' roosting potential would be retained and buffered from development and therefore the presence of a bat roost in this tree would not pose a constraint to the proposals (CD6.21 paragraph 4.44 to 4.45 and 6.39 to 6.42).
- 12.24 Common pipistrelle was the dominant species recorded using the Site. Other species recorded over the survey period included: unidentified Myotis species, soprano pipistrelle and Noctule but the level of recorded activity from these species was significantly lower. The scheme retains and buffers the vast majority of suitable habitat identified to be of value to bats as commuting and foraging habitat. The proposals would also provide mitigation for the loss of foraging habitat in the form of a SUDs basin facilities, hedgerow and broad-leaved tree planting, as well as the retention and enhancements of the retained grassland field compartment.
- 12.25 The breeding and overwintering bird assemblages recorded using the Site have only been identified as being of local level importance and through the implementation of the recommended mitigation, no material effects to the local population are anticipated (CD6.21 paragraphs 6.35 to 6.38).
- 12.26 From the completed assessment, it has been concluded that the site is of relatively low merit or significance in ecological terms and most of the receptors have only been recorded as being of Site or Local level importance.
- 12.27 Assessment of the mitigation and habitat enhancements proposed using the DEFRA Metric (Version 2) confirms the revised proposals submitted in Jan. 2020 result in a material a net gain of 6.78 habitat units (a net gain of 51.63%) and a net gain of 2.55 hedgerow units (a net

gain exceeding 1000%). The net gain provided by the 'Revised Illustrative Masterplan (April 2021)' confirmed through assessment using the DEFRA Metric (Version 2) is slightly increased with a net gain of 7.00 habitat units (a net gain of 53.26%) and a net gain of 2.55 hedgerow units (a net gain exceeding 1000%) (CD6.21 Appendix 2 Annex k).

12.28 These BIA assessments confirm both schemes provide significant net gains to biodiversity well in excess of the 10% threshold currently suggested in the Draft Environment Bill. The level of net gain shown by these proposals, in our opinion, is generally difficult to achieved by moderately size developments and should therefore be considered as a significant benefit of the proposals (CD6.21 paragraph 10.9).

c) Drainage

12.29 Mr Harvey CD6.22b (Paragraph 7) notes that there no objections to the development proposals were raised by the Lead Local Flood Authority (SCC Flood and Water Management Service) (CD2.3) or Yorkshire Water Services Ltd (incumbent Water Company).

12.30 Mr Harvey Address the issues raised by the third parties and these are summarised in CD6.22 Section 1 paragraphs 17 to 25) as follows:

- a) Post development, the site would have a positive drainage system which would take runoff away from the surface and therefore reduce the risk of water collecting on the ground.
- b) A flow control device would be provided at the outfall from the proposed surface water drainage network. This would ensure that the rate of runoff from the site post development does not exceed that which is currently generated by the greenfield site and as such would not lead to an increase in flood risk elsewhere. This position is agreed with the LLFA and detailed at paragraph 2.31 of the 'Flood Risk & Drainage SoCG'.
- c) The development would not pose a pollution risk to Clough Dike and Fox Glen. The SuDS detentions basins are proposed within the surface water drainage network which would provide sufficient water quality treatment to mitigate the potential pollutants associated with a residential development. This is agreed with the LLFA as per paragraph 2.31 of the 'Flood Risk & Drainage SoCG'.
- d) In relation to the rate of surface water runoff post development into Clough Dike and any risk that it will destabilise land at Fox Glen, the outfall from the site is proposed to discharge via a rock cascade, the route and form of which has been discussed with

the LLFA and agreed in principle.

- e) The detention basins are intended to be adopted by Sheffield City Council who have confirmed that they would be willing to adopt the SuDS components as agreed with the LLFA (see paragraph 2.19 of the 'Flood Risk & Drainage SoCG').
- f) Yorkshire Water has provided confirmation that a connection can be made to the public foul sewer on the basis that the public sewer network is capable of accepting the anticipated domestic foul flows.

12.31 With regard to third party representations, Mr Harvey (CD6.22b Section 2 paragraph 25) concludes that measures are already proposed to address the concerns raised in an appropriate manner.

12.32 In respect of the provision of SUDS it should be noted that Mr Harvey highlights the improved water quality and off site discharge rates as a result of SUDS (CD6.22 paragraph 4.9.21) and this benefit is increased by the second area (CD6.22 paragraph 2.2.3). The Suds Scheme also provides for improved Habitat (CD6.22 paragraph 2.25) and provide benefits in terms of amenity, recreation and wildlife (CD6.3.1.13).

12.33 Mr Harvey states that he has considered the findings of the Flood Risk Assessment report, Committee Report, Statement of Common Ground and giving due consideration to the comments of consultees and local residents and confirms that there are no issues related to flooding or drainage that could properly form the basis of the refusal of permission. .

d) Schools

12.34 Among the third party representations there was concern about school capacity.

12.35 However, as is stated in page 20 of the Committee Report *"A development of 93 dwellings would not meet the criteria for s106 education contributions. It is expected that the approximately 3 additional pupils per year group the development is expected to generate could be accommodated in their catchment school."*

12.36 There is a planned increase in the schools capacity within Stocksbridge. Sheffield City Council Adopted CIL Regulation 123 list, this states that additional primary and secondary school places are to be funded by CIL in Stocksbridge.

12.37 Therefore, it is considered that there will be adequate school provision, especially considering the planned education expansion in Stocksbridge.

e) Dental Services

12.38 Within the third party representations, concern was expressed about the dental care

available in the vicinity of the site. The table below shows that there are six Dentists within 6 miles or a 15 minute drive of the site. Five of these accept NHS patients and all are accepting private patients.. Furthermore, the Dental Commissioning Statistics published in 2020 (CD7.22) found that out of a survey of 740,000 responses just 3.3% of those in the North East and Yorkshire tried to get an NHS dental appointment and were unsuccessful. This indicates that the NHS dental provisions are sufficient so that only a minority were unsuccessful in receiving NHS dental services.

Table 2 Dental services nearby the site

Practice	Distance / drive time from site	NHS / Private	
Deepcar Dental Care 334 Manchester Road, Deepcar, Sheffield, S36 2RH	0.7 miles / 2 minute drive	Private	Not accepting NHS patients
Stocksbridge Dental Practice 11 Johnson Street, Stocksbridge, Sheffield, S36 1BX	1.4 miles / 4 minute drive	NHS & Private	Accepting new NHS patients
mydentist Penistone 11 - 15 High Street, Penistone, Sheffield, S36 6BR	5.4 miles / 12 minute drive	NHS & Private	Not accepting new NHS patients
High Green Health Centre 3 Wortley Road, High Green, Sheffield, S35 4LQ	4 miles / 9 minute drive	NHS & Private	No information on the NHS website – however their own page offers NHS services
Alex Jones Dentistry 54 High St, Penistone, Sheffield, S36 6BS	5.4 miles / 13 minute drive	NHS & Private	No information on the NHS website – however their own page offers NHS services
Fern Cottage Dental Practice 28 Hoyland Road, Hoyland, Barnsley, S74 0PB	5.1 miles / 10 minute drive	NHS & Private	No information on the NHS website – however their own page offers NHS services

f) Doctors

12.39 Another concern raised by the third party objectors was the GP provision. The table below shows that there are 6 GPs within 5 miles or a 15 minute drive. Furthermore, as per the NHS Website¹, 5 out of the 6 practices fall better than the average GP:Patient ratio in England of 0.58. Therefore, the GP provision in the area is sufficient to cope with the additional patients from the proposed development.

Table 3 Doctors Services nearby the site

Practice / Address	Weekday evening and weekend appointments offered here or nearby?	Number of Patients	Number of GPs (according to Website)	GPs per Patient	Patient: GP ratio	Distance / drive time from site
271 Manchester Road, Deepcar, Sheffield, S36 2RA	Yes	5, 268 patients	4 GPs / 2 Nurses	1,317 GP/patient	0.76	0.6 miles / 2 minute drive
Valley Medical Centre Johnson Street, Stocksbridge, Sheffield, S36 1BX	Yes	9588 patients	9 GPs / 2 Nurses	1,065 GP/patient	0.94	1.4 miles / 4 minute drive
Penistone Group Practice - Thurgoland Branch Roper Lane, Thurgoland, Sheffield, S35 7AA	Yes	17109 patients	15 GPs / 4 nurses	1,141 GP/patient	0.88	3 miles / 8 minute drive
High Green Health Centre Thompson Hill, High Green, Sheffield, S35 4NF	Yes	14948 patients	18 GPs / 8 nurses	830 GP/patient	1.20	4.2 miles / 7 minute drive
Oughtibridge Surgery Church Street, Oughtibridge, Sheffield, S35 0FW	Yes	5756 patients	6 GPs	959 GP/patient	1.04	3.6 miles / 8 minute drive
Wood Rd (High Green) 1 Jeffcock Road, High Green, Sheffield, S35 4HJ	Yes	12343 patients	7 doctors	1,763 GP/patient	0.57	4.9 miles / 10 minute drive

13.0 PLANNING BALANCE AND CONCLUSION

- 13.1 This appeal is made by Hallam Land following the refusal of outline planning permission by Sheffield City Council for the development of up to 85 dwellings with access from Carr Road, and all other matters reserved (reference: 17/04673/OUT).
- 13.2 The application was recommended for approval by officers on two occasions, who undertook a balance of the impacts and benefits of the proposal and considered that the application should be approved. On both occasions the Committee Report found that the basket of policies was out of date and that the benefits of the proposal outweighed the harm.
- 13.3 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is one such material consideration in planning decisions (NPPF paragraph 2).
- 13.4 I have assessed the development plan policies individually and for the reasons set out in section 10 and 11, I give very little weight to alleged conflict with policies CS72 and GE4, I give little weight to the conflict with LR5, CS22, CS23, CS47, CS63, BE15 and BE19. In terms of the conflict with the development plan I accept that while there is conflict such conflict should be given little weight due to the out of date nature of the policies. In the case of BE15 and BE19 while I give little weight to the conflict with these policies I do, as I explain below, I give great weight to the less than substantial harm on the significance of Royd Farmhouse and the adjacent barn.
- 13.5 I have reviewed the basket of policies and found that individually and collectively they are out of date and therefore the appeal falls to be determined in accordance with Paragraph 11 d of the NPPF.
- 13.6 The approach that I have taken is in accordance with paragraph 11 d i) is to first consider whether the application of policies in the Framework, in this case paragraphs 196, provide a clear reason for refusal of the appeal application.
- 13.7 While the Council claim that there is a substantial harm to the listed buildings, I note the approach and assessment set out in Mr Bourn's PoE section 4 (CD6.19), and his conclusions with respect to the appeal site, that it has a positive contribution to the farmhouse, barn and outbuildings as they form part of the wider agricultural context of the buildings (CD6.19 paragraphs 4.45 to 4.47) and his conclusions in paragraphs 5.6 to 5.22 that the proposed development is considered to have a less than substantial harmful effect on the significance of Royd Farmhouse and the adjacent barn. In this case it is paragraph 196 of the NPPF that

is engaged and not paragraphs 194 and 195.

- 13.8 I also note Mr Bourns conclusion that the proposed development will have no effect on the significance of barn approximately 30 metres to the east of Number 15 The Royd (CD4.19 paragraphs 4.48 and 4.49).
- 13.9 The policies of the NPPF do not provide a clear reason for refusal as I have explained above, because the benefits far outweigh the relatively modest extent of harm, even when I give that harm great weight and as such the appeal proposal falls to be determined in the context of Paragraph 11 d ii). Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 13.10 The benefits of the appeal proposal are identified as being:
- a) The delivery of housing against the higher housing requirement in the standard method (including the urban uplift). I consider this attracts very substantial weight in the context of that it is a central element identified by the Government in achieving its housing policy target of 300,000 dwellings per year.
 - b) The delivery of family homes on the site. I consider this attracts very substantial weight I note that the report of the Planning Manager attached substantial weight to this benefit (CD1.7 Committee Report page 69).
 - c) The provision of policy compliant affordable housing contributions which I consider attracts very substantial weight for the reasons set out in Mr Stacey's evidence as summarised in paragraphs 8.1 to 8.15 (CD6.17). The Planning Manager also attracted substantial weight (Page 69, Committee Report (CD1.7)).
 - d) The site will exceed the policy requirement for Open Space contributions. I consider this attracts substantial weight a (Page 69, Committee Report (CD1.7)).
 - e) Numerous social benefits to which I attract either limited, moderate and substantial weight and I note that similar weight has been attributed by the Planning Manager (Page 69, Committee Report (CD1.7)).
 - f) Numerous economic benefits to which I attach either moderate or substantial weight and I note that similar weight has been attributed by the Planning Manager (Page 69, Committee Report (CD1.7)).
 - g) The site will provide a substantial net gain to biodiversity to which I attach substantial weight.

13.11 Against the weight that should be attached to the benefits of the development I set out above must be weighed the negative impacts of the appeal proposal and these include:

- a) I attach great weight to the less than substantial harm to the significance of the listed farmhouse and farm buildings near to the site which are now in residential use with associated residential curtilages. I have reviewed the Council's argument in its Statement of Case and the evidence of Mr Bourn (CD6.19). I prefer that of Mr Bourn which also supports the Council officer's original assessment of the appeal proposal which concludes that the impact on the setting of these listed buildings results in less than substantial harm.
- b) The adverse effects of the development on the landscape and views: I have reviewed the evidence of Mr Denney which again supports the original conclusion of the Council planning officers that these impacts of the are limited and localised in extent and nature, with the major effects on both views and local landscape character being confined to the site itself and its immediate townscape and landscape context.
- c) The effects on the separation of settlements: I have reviewed the Council's arguments in the Statement of Case and that of Mr Denney and undertaken my own site visits and I conclude that the appeal site plays no material role in the separation of settlements. Its development as proposed will not cause any material harm to this consideration.
- d) Conflict with the Development Plan: I note that the Council have identified a number of development plan policies which they consider would justify the refusal of the appeal proposal I have carefully considered these, but attribute little weight to the conflicts identified as the policies are out of date and the extent of the conflict is, in my opinion limited, given the out of date nature of these policies. Even if these policies attracted greater weight they would not have a material bearing on the substantive issues of harm and benefits identified above.

13.12 I have concluded that the policies in the NPPF do not provide a clear reason for refusal and that the basket of most important policies is out of date and as such the tilted balance in paragraph 11d can be applied. I note that this was the position of the Planning Manager in the second Committee Report and that the Council in the Statement of Case offers no new evidence for their changed position on this matter.

13.13 I have also demonstrated that the Council is not able to demonstrate a five year housing land supply and that providing I am correct that the appeal proposal has a less than substantial

harm on the identified heritage assets then the tilted balance should be applied for this reason alone. The lack of land supply also provides a further weighty reason to grant permission, particularly in the light of the limited non Green Belt opportunities for meeting the future needs of the City.

- 13.14 I consider that the overall balance of harms and benefits, undertaken properly in accordance with the NPPF indicates clearly that the appeal should be approved. I therefor request that the appeal be upheld, and outline planning permission is granted.



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