


**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 SUMMARY PROOF OF EVIDENCE:
Planning Proof of Evidence including the Planning Balance.**

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**Prepared by
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Prepared by
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May 2021

1.0 EXPERIENCE AND SCOPE OF EVIDENCE

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. My full experience is set out in my main proof.

- 1.1 As identified by the Inspector's Case Management Conference, 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.
- 1.2 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.

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).
- 2.2 The proposal is for up to 85 dwellings. The application was subject to two rounds of comprehensive consultation.
- 2.3 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)
- 2.4 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 the application was recommended for approval.

- 2.5 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 recommended the application for approval recognising the significant benefits delivered by the proposal and the limited weight that should be given to the development plan policies, particularly CS72, LR5, CS24 and CS33 (CD1.7).
- 2.6 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.
- 2.7 This recommendation was not supported by the Committee and the Application was refused on 14th July 2020. The minutes of the meeting (CD1.8) state the reasons for refusal as significant harmful impact on *visual amenity* both locally and wider, and the substantial harm to a heritage asset.
- 2.8 The decision notice (CD1.10) 20th July 2020 expanded these reasons to reference NPPF Paragraphs 194-195 and Policies BE15, BE19 and LR5(e as well as to include landscape impact NPPF Paragraphs 127(c) & 170(b and Policies GE4 & LR5(i&j) CS23, CS24 & CS72

3.0 THE APPEAL SITE AND THE SURROUNDING AREA

- 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).
- 3.3 This shows the 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.
- 3.4 The site covers an area of some 6.5ha of private agricultural land.
- 3.5 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.

4.0 PLANNING HISTORY OF THE SITE

a) The Sheffield Green Belt Plan 1983

4.1 The appeal site was part of a larger area that was excluded from the Green Belt in the 1983 Green Belt Plan. While representations were made for the inclusion of this larger area, including the appeal site into the Green Belt, this was resisted by the Council and rejected by the local plan Inspector who took the view that to include the land in the Green Belt, it would have to perform a Green Belt function (CD3.18 Paragraph 525) and that it could not be included as Green Belt just because it was not required for development at that time.

b) The Unitary Development Plan

4.2 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. The draft allocations included the appeal site.

4.3 These allocations were not carried forward into the final plan however nor did the plan extend the Green Belt designation over the site.

4.4 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. Although adopted in 1998 the plan only made allocations to accommodate housing provision to 2001.

c) Previous application and appeal

4.5 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).

4.6 This much larger site did include the current appeal site.

4.7 The application was recommended for approval but refused by members CD5.23b).

4.8 This appeal decision in 1991 (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.

4.9 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.

d) **Applications adjacent to the appeal site**

4.10 There have been a number of applications adjacent to the appeal site that have led to the development of Royd Cottage, although there have been other applications that have been refused including an application for a single dwelling which was subject to an appeal by Written Representation (CD5.22a) which was also refused. The relevance of this decision for the appeal now being considered is limited due to the significant changes in both national policy and local circumstances.

e) **EIA Screening Request relating to the appeal site**

4.11 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, an Environmental Impact Assessment was not required (CD1.32). It is also agreed that a Habitats Regulations Assessment is not required, having been screened out by the Council (CD2.25).

5.0 THE APPEAL PROPOSAL

5.1 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.

5.2 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 In Section 6 of my main evidence, I highlight the housing crisis in England and Governments response to the crisis including the Government's response to the local housing need proposals in "Changes to the current planning system" on the 16th December 2020.

6.2 I reference two appeals to highlight that in line with the Governments position, the **provision**

of family housing should be attributed significant weight independently of the 5 year housing land supply situation.

7.0 PLAN MAKING AND THE LOCAL RESPONSE TO THE HOUSING CRISIS

7.1 In section 7 of my evidence, I examine the Council's very poor track record in plan making and note they have made no policy response to the housing crisis with the last housing allocations in a development plan being designated over 23 years ago. I explain that the UDP made allocations to 2001 and aimed to provide housing at 37% of the current annual requirement. It was on this basis that not only allocations, but also land not to be developed and the related boundaries of such was identified. The Core Strategy made no allocations and was also based on an annual rate that is 42% of the current housing requirement. The Council never produced an allocations plan, despite the passage of 12 years. Even the latest Issues and Options proceeds on an out of date requirement that is 35% less than the current and concludes that Green Belt release is needed in two of the three options.

8.0 THE DELIVERY OF FAMILY AND AFFORDABLE HOUSING

a) The demand and delivery of Family housing

8.1 The "Issues and Options" consultation 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 (CD3.11).

8.2 I set out in Appendix 1 of my 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%).

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

8.4 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)

8.5 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.

b) The Councils Affordable Housing Requirement

8.6 Mr Stacey's evidence (CD6.17 paragraph 8.4) highlights that when taking Right to Buy losses into account, there is **a net under provision of 5,993 over the seven year period since**

2013 against the prevailing SHMA need figures (CD6.17 paragraph 8.5).

- 8.7 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).
- 8.8 It is important to view this in the context of the 32,036 households on the Housing Register in Sheffield at 25 March 2021 (CD6.17 paragraph 8.9).
- 8.9 The future supply of affordable housing 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. (CD6.17 paragraph 8.11).

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

- 9.1 In section 9 I set out my understanding of 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 and what may constitute a clear reason for refusal under part i) and the application of "tilted balance" in part ii).
- 9.2 I go on to review a number of appeal decisions in respect of how policies may become out of date either because of a lack of a five year land supply, being inconsistent with the NPPF or other reasons (i.e.) 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".
- 9.3 Having considered the individual policies I consider the approach to the identification of the basket of most important policies and the "tilted balance" taking into account the approach in *Wavendon Properties Ltd v SSHCLG* [2019] EWHC 1524 (Admin) (CD5.10) which makes it clear that the most important policies should be identified, assessed individually and then viewed together, so that an overall judgement made whether the policies as a whole are out of date.
- 9.4 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. However, the proposal must still be judged against the policies of the development plan and a judgement made about weight, even if the policies are out of date.

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

- 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 inconsistent with the Framework and out of date so that the tilted balance is engaged.

- 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 It is worth noting that the Council's revised position, is different to the position taken by the Council's officers on these policies. A more recently considered application (also in Stocksbridge/Deepcar at Royd Road) took a very similar position on policies to that in the Committee Report for the appeal site (CD7.17).
- 10.4 My proof undertakes a policy by policy assessment of compliance, out of date nature and weight to be attributed to each policy as well as a commentary on the Council's position, the table below provides a summary of my conclusions for each of the most important policies.

Table 1 Most important policies out of date nature and weight

Policy	Compliance of proposal with policy	Out of date nature	Out of date - Reason	Weight?
LR5	Compliant if policy is taken as not representing a blank ban on development.	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Definition of Open Space Area inconsistent with para 97 • Inflexible nature of policy • Overtaken by events • Boundaries set 23 years ago against much lower housing requirement • Development permitted in LR5 designations elsewhere 	Little weight
LR5e	Not compliant	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Inconsistent with paras 195 and 196 no balance • Test for refusal inconsistent with paras 194 - 198 	Little weight
LR5i	Compliant if properly applied	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Inflexible nature of policy as being applied in this appeal by the Council • Overtaken by events • Development permitted in LR5 designations elsewhere 	Little weight
LR5j	Not compliant on its terms	Out of Date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Inflexible nature of policy as it is a bar to most development. • Contrary to NPPF para 170b • Does not allow planning judgement of benefits against harm. • Overtaken by events • Boundaries set 23 years ago against much lower housing requirement • Development permitted in LR5 designations elsewhere 	Little weight

GE4	Compliant	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Not compliant with Green Belt policy NPPG paras 133, 143 to 144. • Inflexible nature of policy 	Very little weight
BE15	Not Compliant	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Approach inconsistent with NPPF paras 195 and 196 • Inflexible nature of policy 	Little weight
BE19	Not Compliant	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Approach inconsistent with NPPF paras 195 and 196 • Inflexible nature of policy 	Little weight
CS22	Compliant	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Does not plan to meet up to date Housing requirement as calculated by the standard method • Overtaken by events • Sites and Policies plan which was to make allocations to meet housing needs has not been produced • New Issues and Options consultation highlights a need for a change in strategy to meet future need 	Little weight
CS23	Compliant	Out of date	<ul style="list-style-type: none"> • Overtaken by events • Sites and Policies plan which was to make allocations to meet housing needs has not been produced • New Issues and Options consultation highlights a need for a change in strategy to meet future need 	Little weight
CS24	Compliant	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Does not plan to meet the uptodate housing need • Overtaken by events • Sites and Policies plan which was to make allocations to meet housing needs has not been produced • New Issues and Options consultation highlights a need for a change in strategy to meet future need 	Little weight
CS72	Not clear if it applies	Out of date	<ul style="list-style-type: none"> • Inconsistent with NPPF • Applies a more restrictive policy to development than the Green Belt. • Inconsistent with NPPF para 170 • Not supported by evidence • Not identified on plan contrary to NPPF para 23 • Overtaken by events • Sites and Policies plan which was to define area to which policy applied this has not been produced • At time of adoption (2009) no need for further housing – all changed. • New Issues and Options consultation highlights a need for a change in strategy to meet future need 	Very little weight

11.0 THE CASE ON BEHALF OF THE APPELLANT

- 11.1 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.
- 11.2 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 proper 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.
- 11.3 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.
- 11.4 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.
- 11.5 The resulting pattern of development caused by the Council's ineffective plan making 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 a significant mismatch when compared to demand which is 80% for housing (Appendix 1 paragraph A1.19).
- 11.6 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.
- 11.7 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 equating 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 should be viewed in the context of a current 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).
- 11.8 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 though

a much promised but never emerging development plan containing housing allocations.

- 11.9 Even the Issues and Options consultation which aimed to meet the much lower 2,200 dpa (40,000 dwellings) would most likely need to be release of Green Belt. The increased requirement makes that even more likely now. 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.
- 11.10 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.
- 11.11 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.
- 11.12 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.
- 11.13 Mr Bourn’s evidence (CD6.19) is clear and consistent with that of 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.
- 11.14 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).
- 11.15 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. In this I take account of the weight to be given to out of date policies.
- 11.16 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."

11.17 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 to their application. As such the appeal proposal is broadly consistent with these aspects of the development plan policy.

11.18 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):

- a) the proposed access layout is considered to represent an appropriate solution in highway design terms (including visibility) and safety for all users.
- b) the improvements gained through the new signal control strategy will more than offset the limited impact of the development traffic through this junction.
- c) 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.

12.2 In respect of sustainable accessibility and public transport Mr Irwin considers that there are a range of local services and amenities that lie within appropriate 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).

12.3 I note Mr Irwin's 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

- 12.4 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 survey period in 2020 – 2021 (CD6.21 appendix 2).
- 12.5 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 statutory sites, from the proposals alone or in combination can be screened out. This is a position is agreed with Natural England.
- 12.6 From the completed assessment (CD6.21), 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.
- 12.7 Assessment of the mitigation and habitat enhancements 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).

c) Drainage

- 12.8 Mr Harvey CD6.22b (Paragraph 7) notes that 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).
- 12.9 Mr Harvey addresses the issues raised by the third parties and these are summarised in CD6.22 Section 1 paragraphs 17 to 25).
- 12.10 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). The SUDS Scheme also provides for improved Habitat (CD6.22 paragraph 2.25) and provides benefits in terms of amenity, recreation and wildlife (CD6.3.1.13).

d) **Schools**

- 12.11 The Committee Report (CD1.7) confirms that 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. School improvements are covered by CIL.

e) **Dental and Doctors Services**

- 12.12 Within the third party representations, concern was expressed about the capacity of dental and doctor's surgeries in the vicinity of the site. There are six Dentists and 6 GPs within 5 miles or a 15 minute drive of the site. 5 out of the 6 GP practices have better than the average GP:Patient ratio than in England of 0.58. The provision in the area is considered sufficient to cope with the additional patients from the proposed development site.

13.0 PLANNING BALANCE AND CONCLUSION

- 13.1 The application was recommended for approval by officers on two occasions. 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.
- 13.2 I have assessed the development plan policies individually and for the reasons set out in section 10 and 11 of my evidence, 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 in some areas, 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.
- 13.3 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.
- 13.4 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.
- 13.5 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.

- 13.6 I also note Mr Bourn's 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).
- 13.7 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.
- 13.8 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 (Page 96 CD1.7 Committee Report).
 - 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 97, Committee Report (CD1.7)).
 - d) The site will exceed the policy requirement for Open Space contributions. I consider this attracts substantial weight a (Page 97, Committee Report (CD1.7)).
 - e) Numerous social benefits to which I attract either limited, moderate or substantial weight and I note that similar weight has been attributed by the Planning Manager (Page 96/97, 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 97, Committee Report (CD1.7)).

- g) The site will provide a substantial net gain to biodiversity to which I attach substantial weight.

13.9 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 are limited and localised in extent and nature, 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 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 change of bearing on the substantive issues of harm and benefits identified above.

13.10 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.

- 13.11 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.
- 13.12 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 therefore request that the appeal be upheld, and outline planning permission is granted.



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