

**Proof of Evidence
Cultural Heritage**

By

Rob Bourn

**Appeal under Section 78 of
Town and Country Planning Act 1990
By Hallam Land Management**

Land off Carr Road, Deepcar

Appeal Ref: APP/J4423/W/21/3267168

Application Ref: 17/04673/OUT

May 2021

Report

Proof of Evidence – Heritage

Site

Land off Carr Road, Deepcar

Client

Hallam Land Management

Planning Authority

Sheffield City Council

Prepared By

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Final

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Appendix 2

Consultation response to the outline planning application from Zoe Mair (Sheffield City Council Principal Planning Officer (Conservation & Design) 4th February 2020

Appendix 3

Consultation response to the outline planning application from Zoe Mair (Principal Planning Officer (Conservation & Design) dated 4th February 2020

1.0 Introduction

- 1.1** My name is Robert Bourn and I am Managing Director at Orion Heritage Ltd. Orion Heritage is an independent heritage consultancy based in Brighton, Manchester and Worcester. The company acts for a wide range of private and public sector organisations across the UK and advises on all aspects of historic environment related planning policy and practice. Prior to setting up Orion in June 2015, I was a Director of the heritage team at CgMs Ltd for 15 years. Prior to joining CgMs, I was the Planning Archaeologist for Berkshire County Council and its successor Unitary Authorities for 5 years (1995-2000).
- 1.2** I hold a BA (Hons) in Archaeology & Prehistory (Sheffield University), an MA in Environmental Planning (Nottingham University) & postgraduate diploma in archaeological practices (Oxford University). I am a Member of the Chartered Institute for Archaeologists (CIfA), the professional institute for archaeologists and other cultural heritage professionals. I have 32 years' experience as a professional archaeologist & heritage consultant, 26 of which have been in a planning and development context acting for both the public and private sectors. During this period, I have personally dealt with major developments affecting the historic environment and setting issues throughout the UK, including numerous housing schemes of all sizes at both outline and reserved matters stages. I have also appeared as a historic environment expert witness for a number of housing and renewable energy related public inquiries.
- 1.3** This proof of evidence has been prepared on behalf of the appellant, Hallam Land Management, in relation to an appeal for the refusal of outline planning permission for the erection of up to 85 including open space (application ref: 17/04673/OUT).
- 1.4** Orion Heritage produced a Historic Environment Desk Based Assessment (CD1.15) to support the outline planning application dated March 2019 and a Heritage Statement dated January 2020 (CD1.12). These reports were written by my colleagues, Dr Rob Smith and Jan Mathieson.

Scope of Proof

- 1.5** This proof of evidence outlines reason for refusal no 1 relating the effect on the following designated heritage assets:
- Royd Farmhouse, Carr Road (Grade II Listed NHLE ref 1286318);
 - Barn and Farm Buildings Approximately 15 metres to the North East of Royd Farmhouse, Carr Road (Grade II Listed NHLE ref 1314585);
 - Barn approximately 30 metres to the east of Number 15, The Royd (Grade II Listed MHLE ref 1193193).
- 1.6** The Barn approx. 30 metres to the east of Number 15 of The Royd was first mentioned as a designated asset that would be adversely impacted upon in

the Council's statement of case. It is not mentioned in the actual refusal of permission.

- 1.7** My evidence is distinct from, but informed by, where relevant, landscape and visual matters, which are dealt with separately by Mr. Brian Denny. The consideration of the planning balance of the proposed development will be dealt with by Mr Roland Bolton.
- 1.8** The evidence which I have prepared and provide for this appeal in this proof, is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

2.0 Legislative & Policy Framework

2.1 Where any development may have a direct or indirect effect on designated and non-designated heritage assets, there is a legislative framework to ensure the proposals are considered with due regard for their impact on the historic environment.

Planning (Listed Building and Conservation Areas) Act 1990

2.2 The *Planning (Listed Buildings and Conservation Areas) Act 1990* sets out legal approach and obligations relevant to listed buildings.

2.3 Section 66(1) of the Act states:

*“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have **special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses**”.* (emphasis added)

National Planning Policy Framework (NPPF)

2.4 Government policy in relation to the historic environment is outlined in Section 16 of the National Planning Policy Framework (NPPF), entitled ‘Conserving and Enhancing the Historic Environment’. This provides guidance for planning authorities, property owners, developers and others on the conservation and investigation of heritage assets. Overall, the objectives of Section 16 of the NPPF can be summarised as seeking the:

- Delivery of sustainable development;
- Understanding the wider social, cultural, economic and environmental benefits brought by the conservation of the historic environment;
- Conservation of England's heritage assets in a manner appropriate to their significance; and
- Recognition of the contribution that heritage assets make to our knowledge and understanding of the past.

2.5 Section 16 of the NPPF recognises that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term.

2.6 Paragraph 189 states that planning decisions should be based on the significance of the heritage asset, and that the level of detail supplied by an applicant should be proportionate to the importance of the asset and should be no more than sufficient to understand the potential impact of the proposal upon the significance of that asset.

2.7 Paragraph 193 outlines that when considering the potential impact of a proposed development on the significance of a designated heritage asset,

great weight should be given to the asset's conservation and that the more important the asset, the greater the weight should be. This is irrespective as to whether the harm to the significance of the asset is substantial or less than substantial.

2.8 In relation to substantial harm to grade II designated heritage assets, para 194 states:

"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;"

2.9 Paragraph 195 states:

"Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use."*

2.10 Where the harm to a designated heritage asset's significance is less than substantial, Paragraph 196 states:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."

2.11 Annex 2 of the NPPF has the following relevant definitions.

- *Heritage Assets:* a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).
- *Designated Heritage Assets* comprise: A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Parks and

Garden, Registered Battlefield or Conservation Areas designated under the relevant legislation.

- *Significance:* The value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
- *Setting:* The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Planning Practice Guidance (PPG)

- 2.12** The NPPF is supported by the PPG (July 2019). In relation to the setting of designated & non-designated heritage assets, paragraph 002 (002 Reference ID: 18a-002-20190723) states that:

"Where changes are proposed, the National Planning Policy Framework sets out a clear framework for both plan-making and decision-making in respect of applications for planning permission and listed building consent to ensure that heritage assets are conserved, and where appropriate enhanced, in a manner that is consistent with their significance and thereby achieving sustainable development. Heritage assets are either designated heritage assets or non-designated heritage assets."

Setting

- 2.13** Paragraph 18a-013 (Paragraph: 013 Reference ID: 18a-013-20190723) outlines that although the extent and importance of setting is often expressed in visual terms, it can also be influenced by other factors such as noise, dust and vibration. Historic relationships between places can also be an important factor stressing ties between places that may have limited or no intervisibility with each other. This may be historic as well as aesthetic connections that contribute or enhance the significance of one or more of the heritage assets.

- 2.14** Paragraph 18a-013 concludes:

"The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance."

When assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may

also damage its economic viability now, or in the future, thereby threatening its on-going conservation.”

Substantial Harm

- 2.15** A key aspect of NPPF paragraphs 193-196 is whether a proposed development will result in substantial harm or less than substantial harm to a designated asset. However, substantial harm is not defined in the NPPF. Paragraph 18a-017 (Paragraph: 017 Reference ID: 18a-017-20190723) of the PPG provides additional guidance on substantial harm. It states:

“What matters in assessing whether a proposal might cause harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset’s physical presence, but also from its setting.

Proposed development affecting a heritage asset may have no impact on its significance or may enhance its significance and therefore cause no harm to the heritage asset. Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the National Planning Policy Framework (paragraphs 194-196) apply.

Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

*Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, **an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed.** The harm may arise from works to the asset or from development within its setting.*

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings’ significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.”
(emphasis added)

- 2.16** In relation to setting, substantial harm from development proposals is relatively infrequent. As an illustration of this relative rarity, I have undertaken

a search of the Compass appeals database to assess the relative levels of substantial and less than substantial harm arising from the development within the setting of listed buildings. The results of this search revealed that there were approximately 349 appeals involving harm to the setting of a listed building(s) since the publication of the NPPF in 2012. Of these, c. 7% (24) involved substantial harm to setting, of which only 1.7% (6) related to houses in the setting of listed buildings. Of these 6 cases, none are directly comparable to the appeal proposal. These all relate to setting however, they all have very different facets from the Carr Road appealed scheme. Some include direct physical effects on listed buildings, while others had effects on designed landscapes and designed landscape settings and most included a number of other additional designations such as a conservation area and/or scheduled monuments. as they also involved either direct physical effects and other designated assets such as conservation areas and/or Scheduled monuments. While this is not a statistical study, it shows that the incidences of setting related substantial harm to the significance of listed buildings from proposed housing schemes is relatively rare. The results of my research indicate that substantial harm from development within the setting in rural/urban edge locations has more frequently arisen in relation to tall structures such as telecommunication towers and wind turbines than from housing.

- 2.17** Paragraph 196 of the NPPF outlines that where a proposed development results in less than substantial harm to the significance of a heritage asset, the harm arising should be weighed against the public benefits accruing from the proposed development. Paragraph 18a-020 of the PPG (Paragraph: 019 Reference ID: 18a-019-20190723) outlines what is meant by public benefits:

*“Public benefits may follow from many developments and **could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.**”*(emphasis added)

Local Planning Policy

- 2.18** The *Sheffield Unitary Development Plan (1998)* includes the following relevant policies which relate to built heritage:

Policy BE15: Areas and Buildings of Special Architectural Interest;

*Buildings and areas of special architectural or historic interest which are an important part of Sheffield's heritage will be preserved or enhanced.
Development which would harm the character or appearance of Listed*

Buildings, Conservation Areas or Areas of Special Character will not be permitted.

Policy BE19: Development Affecting Listed Buildings;

The demolition of Listed Buildings will not be permitted. Proposals for internal or external alterations which would affect the special interest of a Listed Building will be expected to preserve the character and appearance of the building and, where appropriate, to preserve or repair original details and features of interest.

Proposals for change of use will be expected to preserve the character of the building.

Proposals for development within the curtilage of a building or affecting its setting, will be expected to preserve the character and appearance¹ of the building and its setting.

The original use of a Listed Building will be preferred but other uses will be considered where they would enable the future of the building to be secured.

2.19 It is noted that both of these policies are not consistent with NPPF due to the absence of the consideration of the public benefit balance where heritage harm is identified. However, per paragraph 87 of *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)*, the absence of reference to the planning balance between harm and public benefit in BE15 and BE19, does not mean that such balance should not still be applied. Once the outcome of that balance is determined, in line with the NPPF, if it is against the proposal, the policies may still be given weight. Conversely, if that balance is in favour of the development (as is argued by the Appellant here) the judgement on policy weight is to be made in the knowledge that the policy and the Framework have led to different outcomes, underscoring the lack of consistency of the local policy with the Framework. This would clearly indicate reduced weight to the local policy in the decision-making process. That is the Appellant's position in this appeal. The last three sentences of para 87 of Bramshill apply in this case:

“They (the Local Plan policies) do not provide for a balancing exercise of the kind described in paragraphs 193 to 196 of the NPPF, in which “public benefits” are set against “harm”. But they do not preclude a balancing

¹ It is well established in case law that the term "preserve" does not equate to no change but to the existence of harm. It is further clear from NPPF that harm is to be balanced with benefits (see para 2.30 & 2.33 below)

exercise as part of the decision-making process, whenever such an exercise is appropriate. They do not override the NPPF policies or prevent the decision-maker from adopting the approach indicated in them. They are directed to the same basic objective of preservation.”

Policy LR5; Development in Open Space Areas

- 2.20** Point e) of this policy notes *that ‘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. As with Policies BE15 and 19, this policy is not consistent with the NPPF as there is no provision for the consideration of public benefit where heritage harm is identified. The comments in para 2.19 above are also relevant in relation to Policy LR5 e).*

Historic Environment Good Practice Advice in Planning Note 2, Managing Significance in Decision-Taking in the Historic Environment (Historic England 2015) (CD7.12)

- 2.21** The purpose of this document is to provide information to assist local authorities, planning and other consultants, owners, applicants and other interested parties in implementing historic environment policy in the NPPF and NPPG. It outlines a six-stage process to the assembly and analysis of relevant information relating to heritage assets potentially affected by a proposed development.

1. Understand the significance of the affected assets;
2. Understand the impact of the proposal on that significance;
3. Avoid, minimise and mitigate impact in a way that meets the objectives of the NPPF;
4. Look for opportunities to better reveal or enhance significance;
5. Justify any harmful impacts in terms of the sustainable development objective of conserving significance and the need for change; and
6. Offset negative impacts on aspects of significance by enhancing others through recording, disseminating and archiving archaeological and historical interest of the important elements of the heritage assets affected.

Historic England (HE) Good Practice Advice in Planning Note 3 (GPA 3) ‘The Setting of Heritage Assets’ 2017 (Second Edition) (CD7.7)

- 2.22** *Historic England’s Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) provides guidance on the management of change within the setting of heritage assets.*

- 2.23** The document restates the definition of setting as outlined in Annex 2 of the NPPF. Setting is also described as being a separate term to curtilage, character and context; while it is largely a visual term, setting, and thus the way in which an asset is experienced, can also be affected by noise, vibration, odour and other factors. The document makes it clear that setting is not a heritage asset, nor is it a heritage designation, though land within a setting may itself be separately designated. Its importance lies in what the setting contributes to the significance of a heritage asset.
- 2.24** The Good Practice Advice Note sets out a five-stage process for assessing the implications of proposed developments on setting:
1. Identification of heritage assets which are likely to be affected by proposals;
 2. Assessment of whether and what contribution the setting makes to the significance of a heritage asset;
 3. Assessing the effects of proposed development on the significance of a heritage asset;
 4. Maximising enhancement and reduction of harm on the setting of heritage assets; and
 5. Making and documenting the decision and monitoring outcomes.
- 2.25** The guidance reiterates the NPPF in stating that where development affecting the setting of heritage assets results in a level of harm to significance, this harm, whether substantial or less than substantial, should be weighed against the public benefits of the scheme.

Relevant Case Law

Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council
[2014] EWCA Civ 137(CD5.6)

- 2.26** The key outcome of the ruling in relation to this appeal is that Section 66 of the 1990 Act requires the decision maker to give considerable importance and weight to the desirability of preserving the setting of listed buildings when balancing harm against benefit as required by paragraphs 133 and 134 of the 2012 NPPF, which have the same wording as paragraph 195 and 196 of the 2019 NPPF. Harm arising from a development is based on the effect it has on the contribution that setting makes to the significance of a heritage asset. The Court of Appeal ruling stresses that it is the weight that is accorded to the harm that is the important element in the test for the decision maker. This in turn leads to the appropriate weighting of the harm arising from a development against the public benefits accrued from the development.
- 2.27** The second key outcome from the Barnwell Manor ruling is the importance of adequate articulation of how the assessment of harm has been arrived at. The

assessment of the level of harm on listed buildings has to be based on the contribution that the setting of an asset makes to its significance and how a proposed development affects this. This should not be on such narrow grounds as whether a reasonable observer would always be able to understand the development was a modern addition to the landscape. The process required here is the 5-staged approach to the assessment of the setting of a heritage asset as outlined in Historic England's Historic Environment Good Practice Advice in Planning Note 3 The Setting of Heritage Assets (2015) as outlined in paragraphs 2.21-2.24 above.

Bedford Borough Council v Secretary of State for Communities and Local Government & Nuon UK Ltd ([2013] EWHC 2847 (Admin) (CD5.5)

2.28 This case addressed the issue of what constitutes substantial harm in cases where there are impacts arising on the setting of an assets instead of physical direct effects. Paragraph 24- 26 stated:

*24. ...What the Inspector was saying was that for harm to be substantial, the impact on significance was required to be serious such that **very much, if not all, of the significance was drained away.***

*25. Plainly in the context of physical harm, this would apply in the case of the demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that **its significance was either vitiated altogether or very much reduced.***

26. I have considered whether the formulation "something approaching demolition or destruction" is putting the matter too high in any event. "Substantial" and "serious" may be regarded as interchangeable adjectives in this context, but does the phrase "something approaching demolition or destruction" add a further layer of seriousness as it where? That answer in my judgment is that it may do, but it does not necessarily. All would depend on how the Inspector interpreted and applied the adjectival phrase "something approaching". It is somewhat flexible in its import. I am not persuaded that the Inspector erred in this respect."
(emphasis added)

The Forge Field Society and others v Sevenoaks District Council [2014] EWHC 1895 (Admin) (CD5.4)

2.29 The High Court of Justice decision of The Forge Field Society and others v Sevenoaks District Council [2014] EWHC 1895 (Admin), issued on 12 June 2014, is also of relevance to this appeal.

- 2.30** The judgment ruled that the duties of Section 66 and 72 of the 1990 Act did not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance conservation areas as mere material considerations to which it could attach weight as it saw fit. If a planning authority finds that a proposed development will cause harm to the setting of a listed building or to a conservation area, it must give considerable importance and weight to that harm in any subsequent balance against public benefits. To find harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. However, whilst the presumption is statutory, it can be rebutted. That is, harm can be outweighed by public benefits where they are of sufficient weight and power and as long as the authority can properly strike such a balance between harm and benefits being conscious of the statutory presumption in favour of conservation. Importantly, the decision maker will also need to demonstrate that it has applied that presumption correctly to proposals it considers.

Jones and Mordue and Secretary of State for Communities and Local Government v South Northamptonshire Council [2015] EWCA 539 (Admin) (CD5.3)

- 2.31** The relevant aspect of the case is that paragraph 132-134 of the NPPF lays down an approach that corresponds with the duty of section 66 of the 1990 Planning Act. That is, if a decision maker has worked through the tests in the NPPF, they will have accorded with S66 of the 1990 Act. Paragraphs 132-134 of the 2012 NPPF have the same wording as paragraphs 194-196 of the 2019 NPPF.

Catesby Estates Ltd v Peter Steer [2019] 1 P&CR 5, McFarlane, Lindblom, Asplin LJJ (CD5.2)

- 2.32** The key aspect about this case is the issue of historical associations and other non-visual connections, the identification of the setting, whether there is harm to the significance of an asset and the need for the decision maker to apply “considerable importance and weight” to the conservation of the significance of the set.

26. [It is not the case] that factors other than the visual and physical must be ignored when a decision-maker is considering the extent of a listed building's setting. Generally, of course, the decision-maker will be concentrating on visual and physical considerations, as in Williams (see also, for example, the first instance judgment in R. (on the application of Miller) v North Yorkshire County Council [2009] EWHC 2172 (Admin), at paragraph 89). But it is clear from the relevant national policy and guidance to which I have referred, in particular the guidance in paragraph

18a-013-20140306 of the PPG, that the Government recognises the potential relevance of other considerations – economic, social and historical. These other considerations may include, for example, “the historic relationship between places”. Historic England’s advice in GPA3 was broadly to the same effect.

- 27. It has also been accepted in this court that the effect of development on the setting of a listed building is not necessarily confined to visual or physical impact. As Lewison L.J. said in R. (on the application of Palmer) v Herefordshire Council [2016] EWCA Civ 1061 (in paragraph 5 of his judgment), “[although] the most obvious way in which the setting of a listed building might be harmed is by encroachment or visual intrusion, it is common ground that, in principle, the setting of a listed building may be harmed by noise or smell”. In that case the potential harm to the setting of the listed building was by noise and odour from four poultry broiler units.*
- 28. Three general points emerge. First, the section 66(1) duty, where it relates to the effect of a proposed development on the setting of a listed building, makes it necessary for the decision-maker to understand what that setting is – even if its extent is difficult or impossible to delineate exactly – and whether the site of the proposed development will be within it or in some way related to it. Otherwise, the decision-maker may find it hard to assess whether and how the proposed development “affects” the setting of the listed building, and to perform the statutory obligation to “have special regard to the desirability of preserving ... its setting ...”.*
- 29. Secondly, though this is never a purely subjective exercise, none of the relevant policy, guidance and advice prescribes for all cases a single approach to identifying the extent of a listed building’s setting. Nor could it. In every case where that has to be done, the decision-maker must apply planning judgment to the particular facts and circumstances, having regard to relevant policy, guidance and advice. The facts and circumstances will differ from one case to the next. It may be that the site of the proposed development, though physically close to a listed building, has no real relationship with it and falls outside its setting, while another site, much further away, nevertheless has an important relationship with the listed building and is within its setting (see the discussion in sections 14.3, 15.2 and 15.8 of Mynors and Hewitson’s “Listed Buildings and Other Heritage Assets”, fifth edition). Under current national planning policy and guidance in England, in the NPPF and the PPG, the decision-maker has to concentrate on the “surroundings in which [the heritage] asset is experienced”, keeping in mind that those “surroundings” may change over time, and also that the way in which a heritage asset can be “experienced” is not limited only to the sense of sight. The “surroundings” of the heritage asset are its physical surroundings, and the relevant “experience”, whatever it is, will be of the heritage asset itself in that physical place.*

30. *Thirdly, the effect of a particular development on the setting of a listed building – where, when and how that effect is likely to be perceived, whether or not it will preserve the setting of the listed building, whether, under government policy in the NPPF, it will harm the “significance” of the listed building as a heritage asset, and how it bears on the planning balance – are all matters for the planning decision-maker, subject, of course, to the principle emphasized by this court in East Northamptonshire District Council v Secretary of State for Communities and Local Government [2015] 1 W.L.R. 45 (at paragraphs 26 to 29), Jones v Mordue [2016] 1 W.L.R. 2682 (at paragraphs 21 to 23), and Palmer (at paragraph 5), that “considerable importance and weight” must be given to the desirability of preserving the setting of a heritage asset. Unless there has been some clear error of law in the decision-maker’s approach, the court should not intervene (see Williams, at paragraph 72). For decisions on planning appeals, this kind of case is a good test of the principle stated by Lord Carnwath in Hopkins Homes Ltd. v Secretary of State for Communities and Local Government [2017] 1 W.L.R. 1865 (at paragraph 25) – that “the courts should respect the expertise of the specialist planning inspectors and start at least from the presumption that they will have understood the policy framework correctly”.*

R (James Hall and Company Ltd) v City of Bradford MDC [2019] EWHC 2899 (Admin), HHJ Belcher (CD5.1)

2.33 This case addressed the three categories of heritage harm (i.e. no harm, less than substantial harm and substantial harm). Paragraph 34 states:

*“In my judgment the three categories of harm recognised in the NPPF are clear. There is substantial harm, less than substantial harm and no harm. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm. It will be a matter of planning judgement as to the point at which a particular degree of harm moves from substantial to less than substantial, but **it is equally the case that there will be a number of types of harm that will fall into less than substantial, including harm which might otherwise be described as very much less than substantial.** There is no intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited, or even negligible, but nevertheless has a harmful impact. **The fact that the harm may be limited or negligible will plainly go to the weight to be given to it as recognised in Paragraph 193 NPPF.** However, in my judgment, minimal harm must fall to be considered within the category of less than substantial harm.”(emphasis added)*

Summary of the Key Points in Relation to Setting

2.34 Government policy aims to preserve the significance of heritage assets.

- All heritage assets have a setting, and that setting may contribute to the significance of the asset.
- Change in the setting of a heritage asset may affect that contribution.
- Change (for example visual change) is not in itself an impact on the significance of a heritage asset. An impact will only occur if the change affects the contribution made by setting to overall significance.
- The correct basis for an assessment is therefore an analysis of the significance of the heritage asset, including the contribution made by setting and the impact caused to that significance.
- In cases where only setting is affected, only the portion of significance derived from setting can be affected.
- It cannot be assumed that visual change constitutes an adverse impact or that more visual change will be a greater impact. So, proximity to and intervisibility are not useful criteria on their own for the assessment of impact magnitude. What must be understood is how this visual change affects the contribution to significance made by setting before a conclusion can be reached about the magnitude of any impact.
- It cannot be assumed that a more important asset (typically a high-grade designated asset) will experience a greater magnitude of impact. What matters is the extent to which its significance derives from setting and this is unrelated to the importance of the asset. In most cases, the majority of significance ascribed to a heritage asset lies in its form and fabric and this will be unaffected by change in the setting.
- Harm in all cases, means ‘harm to the significance of a heritage asset’. Where the setting of a heritage asset contributes to its significance, change in that setting may harm the significance of the heritage asset. Policy and law does not recognise separate concepts such as ‘harm to the setting’ or ‘harm to the significance of a setting’.
- For the purposes of paragraphs 194 and 195 of the NPPF, “substantial harm” means an impact which would have such a serious impact on the significance of the asset that its significance was either removed or very much reduced. Paragraph 26 of *Bedford Borough Council v Secretary of*

State for Communities and Local Government & Nuon UK Ltd ([2013] EWHC 2847 (Admin) (CD5.5) is of relevance in this respect:

*“In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have **such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.**” (emphasis added)*

- Where there is harm on a designated heritage’s asset’s significance from a proposed development, the decision maker should put great weight on the asset’s conservation (the more important the asset, the greater that weight should be). As per *The Forge Field Society and others v Sevenoaks District Council [2014] EWHC 1895 (Admin) (CD5.4)* this is irrespective of whether potential harm amounts to substantial harm total loss or less than substantial harm to its significance. However, the degree of harm is relevant to the balance of harms against benefits; *R (James Hall and Company Ltd) v City of Bradford MDC [2019] EWHC 2899 (Admin) (CD5.1)*.

3.0 Sheffield City Council Reason for Refusal

- 3.1 The planning application was refused permission on 20th July 2020. Reason for refusal no 1 states:

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.

Consultee Responses to the Outline Application

- 3.2 Following the submission of the January 2020 Orion Heritage Statement (CD1.12), Zoe Mair's (Sheffield City Council's Principal Planning Officer [Conservation & Design]) response dated 4th February 2020 confirmed that Orion Heritage's report followed the Historic England's guidance Setting of Heritage Assets (GPA3) and covered the appropriate policy (Appendix 2). She disagreed with the conclusion relating to the historic interest as she considered this to be medium not low to medium as per para 4.22 & 4.23 of the Orion Heritage report. This difference between Ms Mair and the Orion Heritage report is a minor one and the Orion report's conclusions of low to medium puts this assessment of the historic interest very close to Ms Mair's assessment.
- 3.3 Ms Mair's second bullet point outlines that she does not believe that there is public benefit from the proposed development. It is not clear that she is considering wider planning benefits as opposed to heritage benefits here. She **does** agree however that the effect of the proposed development equates to less than substantial harm and that the setting and character of the listed farm is preserved.
- 3.4 Ms Mair quotes the Heritage Statement's conclusion that the design of the scheme has taken considerable steps to control and minimise the effect of the scheme and that the design response results in a **less than substantial harmful effect and that the setting and character of the of the listed farm is preserved. She goes on to quote the conclusion of the Heritage Statement (CD1.12) that the level of harm is at the lowest end of this categorisation of harm.** Ms Mair does not make a statement disagreeing with this conclusion. Ms Mair then outlines some further mitigation measures that could be taken to further reduce this effect such as widening the space between the houses and the farm and also planting to maintain the screening to the listed buildings. She also outlines some appropriate detailed design responses. As outlined

below (paras 4.53 & 4.54), whilst I do not feel there is a specific need to do so, the design of the scheme has been further modified to take these comments into account.

- 3.5** Ms Mair's consultation response concludes that she is 'happy' that the setting of Royd Farm and barn have been identified and mitigation has been proposed to reduce any harm to the two listed buildings. This is a conclusion that I am in full agreement with.

Committee Report (CD1.7)

- 3.6** The committee report recommended planning permission be granted subject to conditions and legal agreement. The report contains a detailed consideration of the heritage issues relating to the proposed development (pages 116-119). The heritage section starts with a consideration of the relevant Sheffield Unitary Development Plan policies, section 16(2) and 66 of the Listed Buildings and Conservation Areas Act 1990 and NPPF section 16 paragraphs 193-196. It confirms that there are no designated heritage assets within the site and that there are two listed buildings adjacent to the site (Royd Farmhouse and the Barn and Farm buildings adjacent to Royd Farmhouse). It also considers the grade II listed Barn approximately 30 metres to the east of Number 15, The Royd to the east of the appeal site but concludes that the proposed development is considered to have no effect on the setting and significance of this building (para 8 of page 116). The location of these designated assets are shown in Appendix Figure 1 of my proof.
- 3.7** The Committee Report is clear in concluding that the proposed development will have no physical effects on the listed buildings but it will affect their setting. In relation to Royd Farm, the report outlines that the house is surrounded on three sides by garden areas and is seen mainly in context with the adjoining listed former barn and farm buildings which form a courtyard type group which forms the primary context of the farmhouse. The report concludes that impact of the proposed development is likely to be low due to the separation distance between the house and the development and due to the intention to ensure views over the farmhouse and other listed buildings are not dominated by the proposed development. This conclusion is clear in accepting that the design of the scheme has clearly taken the presence of the listed buildings into account in an appropriate way so as to reduce the impact upon their significance.
- 3.8** Following further detailed consideration of the visual effects of the proposed development, as outlined in paragraphs 4.53 & 4.54 below further changes to the design of the scheme in the area to the west of Royd Farmhouse have been made so as to further reduce the effect on the significance of the farmhouse.

3.9 The committee report also considered the former pigsties located on the western garden boundary which form part of the listing (curtilage listed) and concludes that the scheme would not affect the appearance of this structure as an outbuilding in the garden of the farm and consequently the impact on the setting of the pigsties would be low. In relation to the adjacent listed barn and other former outbuildings, the report outlines that they will be separated from the development by existing gardens, the retention of a substantial open area and additional planting. As outlined in paragraphs 4.53 & 4.54, the masterplan has been further revised to provide additional open space to the rear of Royd Farmhouse and the pigsties. Appropriate landscaping is also proposed in this area.

3.10 In relation to the level of harm that the proposed development will have on the significance of Royd Farmhouse and the adjacent listed former barns, the report concludes the following (paras 1-3 page 118):

“A key issue would be to ensure the heights of new buildings do not dominate the views over the buildings. This and other relevant material matters would also be further considered at the reserved matters stage.

It is considered that there would be sufficient land within the application site to ensure that sufficient separation could be provided to ensure the proposed development subject to satisfactory submissions at the reserved matters stage would not cause substantial harm to the setting of, or the architectural and historic interest of the listed buildings at Royd Farmhouse, and sufficient separation from other heritage assets in the locality to ensure there would be no substantial harm to other heritage assets in the locality.

There will be an impact on the setting of the listed buildings but, for the reasons given above, this is considered to be less than substantial. Therefore this harm has to be assessed against the public benefits of the proposal as required in the NPPF paragraph 196.”

3.11 The masterplan has been further revised as per paragraphs 4.53 & 4.54 so as to ensure that the effect of the proposed development has been further reduced and so to ensure the development will not dominate the listed buildings. This also provides additional open space to the west of the farmhouse, in addition to the open space that was proposed to the west of the barn in the earlier submitted masterplan.

3.12 The report assesses the public benefits arising from the proposed development and concludes (para 8 page 118), when the Council thought there was a 5 year supply:

“Therefore, even when considerable importance and weight is given to the less than substantial harm identified to the aforementioned designated

heritage assets, it is considered that the public benefits of the proposal outweigh the less than substantial harm caused to the setting of the listed buildings and the character and appearance of the buildings would be preserved.”

- 3.13** The heritage section of the committee report finally concludes that following the considerable importance and weight being attributed to the harm arising from the proposed development, the public benefits of the scheme outweigh that harm from the proposed development. Therefore, the proposed development complies with UDP policies BE15 and BE19 and NPPF paragraphs 184-202. This is the same approach as was adopted in *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 (CD5.7)*, but with a different outcome in this case. Consequently, the committee report’s conclusions are in line with the Bramshill case.
- 3.14** The committee report’s conclusion that the proposed development will result in less than substantial harm to the significance of Royd Farm and the adjacent listed barns and outbuildings accords with the Orion Heritage January 2020 Heritage Statement (CD1.12).
- 3.15** Despite the Committee report clearly concluding that the proposed development would result in less than substantial harm and that the public benefits would outweigh this harm, the scheme was refused planning permission due to it allegedly resulting in substantial harm to the setting of the Listed Buildings at Royd Farm. This conclusion is contrary to the well-considered committee report and the Heritage Statement submitted to support the application. Having undertaken my own assessment of the effect of the proposed development on the significance of Royd Farmhouse and the barn & outbuildings, a conclusion of substantial harm is not one that I could agree with. This point will be addressed below and in section 4. It should be noted that Historic England’s GPA3 (CD7.3) is clear that setting is not a heritage asset nor a heritage designation. It also should be noted that the reason for refusal does not comment on the effect on the significance of the designated heritage assets themselves, but only on the setting, as though this was an asset, which it is not.

Sheffield City Council Statement of Case

- 3.16** The Sheffield City Council’s statement of case outlines that the Council will argue the proposed development will result in substantial harm to the setting of Royd Farm, the adjacent listed barn and outbuildings NE of Royd Farm and a barn approximately 30m East of No 15 The Royd and that the public benefits do not outweigh this harm (paragraph 5.5 & 5.13).

- 3.17** The reason for refusal no 1 and the Council's statement of case is in contradiction to the Committee report's conclusions that the proposed development would result in less than substantial harm and that the resulting public benefits would outweigh this harm.
- 3.18** The Council's statement of case is also in direct contradiction to the committee report and seeks to extend the reason for refusal, by alleging that the significance of the barn approximately 30m East of No 15 The Royd will be substantially harmed. The Committee report is clear in its conclusions that the setting and significance of this designated asset will not be affected by the proposed development.
- 3.19** During discussions with Ms Ruth Masood (Sheffield City Council's Conservation Officer) relating to agree the heritage Statement of Common Ground, it became apparent that the Council were not alleging that the barn 15m to the east of 15 The Royd was impacted by the proposed development. This was included in the Council's statement of case as being an example of a surviving element of the early buildings forming Royd hamlet. It is agreed between the appellant and the Council that the appealed proposed development will not have an effect on the significance of this barn (Heritage SoCG para 1.27 – 1.2.9 & 1.32).

4.0 Assessment of Significance and Impact on Designated Heritage Assets

Introduction

- 4.1 The approach to assessing the effect on the settings of heritage assets adopted in my proof of evidence follows the approach that is set out in Historic England's *Historic Environment Good Practice Advice in Planning Note 3*. The 5 staged approach is as follows:
1. Identification of heritage assets which are likely to be affected by proposals;
 2. Assessment of degree to which the setting of these assets makes to the significance of the heritage assets or allow the significance to be appreciated;
 3. Assess the effects of the proposed development, whether beneficial or harmful on the significance of a heritage asset or on the ability to appreciate it;
 4. Explore ways to maximise enhancement and avoid or minimise harm; and
 5. Make and document the decision and monitoring outcomes
- 4.2 Stage 5 is for the decision maker to undertake and so will not be undertaken in my proof.
- 4.3 Other guidance documents and publications that have been considered during the assessment are:
- BS 7913:2013 Guide to the Conservation of Historic Buildings (CD7.13) which outlines a process of assessment of historic buildings that essentially paraphrases the NPPF and Historic England's GPA3, although most of this document is actually relates to the undertaking of works to built heritage assets which is not relevant in this case.
 - Principles of Selection for Listed Buildings (Department for Digital, Culture, Media and Sport 2015) (CD7.10) outlines the criteria to be used when considering the designation of listed buildings (architectural, interest, historic interest, group value, fixtures and features of a building and character and appearance of a conservation area).
 - Agricultural Buildings Listing Selection Guide 2017 Historic England (CD7.14). This document outlines the approach to be taken when assessing farmsteads and farm buildings for listing purposes.
 - Adapting Traditional Farm Buildings Historic England (CD7.9) Chapter 2 sets out an approaching to assessing the character and significance of farm buildings and the factors to be taken into consideration.
- 4.4 This assessment utilises the research undertaken for the January 2020 Heritage Statement by Orion Heritage which was written by my colleague, Jan

Mathieson (CD1.12). This report was undertaken in accordance with Historic England's Statements of Heritage Significance: Analysing Significance in Heritage Assets Historic England Advice Note 12 (2019) (CD7.4).

- 4.5** A new site visit was undertaken by myself in March 2021. This visit included viewing Royd Farmhouse and the adjacent barns from within their gardens. The houseowners, Mr & Mrs Morgan did not want me to enter the house itself (that would also not have been possible due to the Covid 19 restrictions that were in place at the time) or take photos of the house from the garden. However, the site visit to the property and the appeal site have enabled me to identify which window the photograph that is in Mr Morgan's representation to PINS was taken from. This is a single first floor small window in the western elevation of the rear of the older (southern) half of the listed house. I want to thank the owners of the properties for agreeing to allow me access to their land and for being so co-operative when I did visit their land.
- 4.6** This proof presents my own assessment of Royd Farmhouse, adjacent barn and outbuildings and the barn approximately 30m east of The Royd and the effect of the proposed development upon its significance. However, the two assessments should be read together as they are in accord with each other.
- 4.7** In all instances, the significance of the assets primarily resides within their architectural and historic interest (i.e. their form and fabric). Consequently, as the proposed development will have no direct effects on any designated heritage assets, the core of the significance of all of the assets potentially affected, will not be impacted upon. The setting in each case is a much more modest component of the asset's significance, when compared to the architectural and historic interest of the buildings themselves. None of the listings refer to the setting of any of the buildings.
- 4.8** The significance is assessed in accordance with GPA3 and NPPF 2019.
- 4.9** As Historic England's Listing notes that the Barn and Farm Buildings have extensive new interventions primarily related to its conversion to three residential units (Appendix 1 Fig. 27), and are included partly for group purpose, the significance of the Royd Farm listed buildings is assessed individually, they have the same setting as each other (except that they each form a very significant aspect of each other's setting) and the impact assessed cumulatively.

GPA3 Stage 1

- 4.10** Sheffield City Council's statement of case outlines that they consider that three listed buildings are affected by the proposed development. These are:
- Royd Farmhouse
 - Barn and Farm Buildings which lie approximately 15 m north-east of Royd Farmhouse
 - Barn approx. 30m East of No 15 The Royd
- 4.11** Appendix 1 Figure 1 shows the location of these three designated heritage assets in relation to the appeal site.

Evolution of the Site and area

- 4.12** Prior to the introduction of heavy industry and the expansion of Stocksbridge and Deepcar in the 20th century, Royd (where the appeal site is located) was a small hillside hamlet comprising Royd Farm on the west side of Carr Road and a small number of houses along The Royd and Royd Lane to the east side of Carr Road (Appendix 1 Figure x).
- 4.13** The appeal site is located in an area that became a centre of industry in the 19th century with many industries along the Little Don River valley in to the north and north east. The Victorian period saw the beginning of industry in Stocksbridge when in 1845 Samuel Fox moved to the area and initiated the industrial revolution in the area. Located c. 0.6 miles to the north of the appeal site, along the River Little Don, was Hunshelf Cornmill, a mill site which was used for fulling, cotton and later wire which went on to become the Stocksbridge steelworks. Whilst the combination of industry and agriculture was not unusual, the proliferation of various types of extraction and manufacture in the area lent a particular juxtaposition of rural landscape and what was, in effect, heavy industry.
- 4.14** The Bolsterstone Glass House which was founded by the Fox family in the mid-17th century (c. 0.7mile to the NW of the appeal site) is an early example of local manufacturing. Early attempts at silk and cotton spinning in Stocksbridge were abandoned in the late 18th century due to the unsuitability of the local soil but in its place came the production of steel. Samuel Fox was instrumental in developing the steel industry locally, not just for heavy machinery but for umbrella and crinoline frames and his company was still evident in the 20th century.
- 4.15** There are several written personal memories of the time of coke burning in the area of Fox Glen c. 1km to the north east of the appeal site leaving little vegetation standing. In immediate proximity to the site, the proliferation of shafts and a colliery encompassing, but not on, the site is noted on early OS Maps (Appendix 1 Figs 6 & 7). There are local records of farms, or parts of farms, being leased out for mining purposes, although this does not appear to be the case for Royd. Whilst the site does not appear to have been used for industrial purposes, it would appear to certainly have been set within an industrial context with large scale heavy industry.
- 4.16** A map regression is included in Appendix 1 Figs 2-20. The earliest available map (1855 OS 1:10,560 Fig 2) shows Royd Farm, the adjacent barn and pigsty arranged around a courtyard that fronts onto Carr Road with garden to the rear (west) and south. The appeal site itself was the same four fields as it is now, although the field to the north of Royd Farm extended further to the north. By 1893 (OS 1:2,500 scale map Fig. 3) an old mine shaft is shown at the north end of the field to the north of the farm. Two further old mine shafts are shown on the east side of Carr Road and Hollin Busk Colliery is marked to the west of the appeal site. The 1:10,560 scale OS Map of 1894 (Fig 4) shows the wider area, with its collieries and steel-wire manufacturing, combined agricultural fields with considerable areas of industrial use.

- 4.17** The subsequent OS maps show the expansion of heavy industry within the wider area, including the large brickworks at the north eastern end of Fox Glen which is first shown on the 1924 OS map (Fig. 7).
- 4.18** The post WWII OS maps OS maps show how the residential areas of Stocksbridge, Haywood and Deepcar expended rapidly, ultimately resulting in Royd being subsumed into Deepcar in the 1970s, which in turn has been subsumed into Haywood and Stocksbridge (Appendix 1 Figs 12-20). This has resulted in the appeal site being immediately on the western boundary of a large area of residential area of Deepcar, which continues around the north and north west, beyond Fox Glen and Clough Dike around to Haywood and Stocksbridge.

GPA3 Stage 2

Royd Farmhouse, Carr Road (Grade II NHLE No 1286318)

- 4.19** The listing description for Royd Farm states (the description of the interior has been excluding) (Appendix 1 Plate 1):

Farmhouse. C17 and C18, possibly earlier core. Possibly partly timber-framed. Coursed, squared sandstone, later work more regular. Stone slate roof.

Twin gabled front to two adjoining parallel ranges each two rooms deep. Two storeys, two windows to first floor. C17 part to left: quoins, square-faced window surround to each floor, lower one with two sashes divided by wood mullion, upper window three-light casement. C18 part to right: plinth, tooled quoins. Panelled door to left in bonded ashlar surround. To right a large two-light mullion window to each floor, both in square-faced surrounds with wood casements. Ashlar ridge stack with band and cornice.

Rear: C17 part has a casement in early deeply chamfered surround, to its right an inserted doorway through a former two-light double-chamfered mullion window opening. Square-faced window surround to first floor.

Left return: to right a section of altered walling indicates a removed lateral stack. Right return: to right, square-faced surrounds to a window on each floor, recessed mullions. To left of windows a chamfered, quoined doorway. Matching end stack to rear.

- 4.20** Royd Farmhouse is in residential use and no longer serves the function of a farmhouse related to the surrounding fields. It has gardens and domestic curtilage rather different in overall terms to that of an operational farm.
- 4.21** The listing describes an agricultural dwelling. Both its fabric and setting have evolved over several hundred years.

- 4.22** The significance of this building resides primarily within its vernacular architectural and historic interest as an example of a 17th and 18th century farmhouse. It is a vernacular building which uses local materials and construction techniques and, while not a work of outstanding architecture, it exhibits the evolution of an agricultural dwelling over several centuries. Its historic interest also resides in it 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.
- 4.23** There is no documentary evidence that indicates whether the appeal site was in the same historical ownership as Royd Farmhouse. Detailed research of Sheffield City Archives and online resources has been undertaken by Orion Heritage's specialist archives researcher, Archangel Heritage, which has established the ownership of Royd Farm from 1857 (Appendix 3). Sheffield City Archives holds a copy of the enclosure award and map for Bolsterstone chapelry dated 1782 which although it depicts the appeal site, with the exception of the very south eastern tip of the site next to the Carr Road/Hollin Busk Lane junction, the land is not included in the accompanying apportionment (Appendix 3). Consequently, it does not shed any light on the ownership of the appeal site at that time. Despite this lack of documentary evidence, it is reasonable to assume that the appeal site was once included within the holding of Royd Farm. Consequently, the farmhouse has a functional, albeit historic connection with the appeal site.
- 4.24** The farmhouse and appeal site no longer have a functional or ownership connection. Its barns have also been refurbished as residential units and are also no longer in joint ownership with each other or the appeal site. The barns, that would have had no domestic gardens around them when used as barns, now do and this is a material change in addition to the alterations that have been made to the buildings themselves. However, although having no remaining connections to the agricultural history, its presence is a reminder of the agricultural origins of Deepcar, despite it no longer serving its originally intended purpose.
- 4.25** The farmhouse was constructed to face Carr Road more than the fields to the west (i.e. the appeal site). The current front door is on the north elevation of the house facing the courtyard and south and east elevation of the adjacent barn (Appendix 1 Plates 1, 2 & 6). The original 17th century front door, which became incorporated into the interior of the house when it was extended in the 18th century also faced north toward the where the barns are. The house was not built to face over the fields to the west of the farmhouse although there is one 1st floor rear window that looks across the site (Appendix 1 Plate 24).

- 4.26** As its group value with the associated Barn and Farm Buildings is noted in Historic England's Listing, impact upon setting is considered on the group of buildings at the end of this section.

Barn and Farm Buildings which lie approximately 15 m north-east of Royd Farmhouse (Grade II NHLE No 1314585)

- 4.27** The listing description for the barn and farm buildings states (Appendix 1 Plate 1):

Barn and farm buildings now undergoing conversion to three dwellings. Dated IGM 1790, on lintel. Coursed, squared gritstone, stone slate roof, lower part C20 cement-tiled. L-shaped range with extended wing projecting from front right of barn. Two storeys.

Barn: quoins. Large segmental-arched cart entrance in quoined reveals now with C20 glazing. To right a lower archway with boarded garage doors. To left, door in bonded ashlar surround with dated lintel, a small window to its right. Two windows to first floor both with C20 glazing.

Range of buildings projecting from right: quoins. Two cowhouse doors to right in bonded surrounds, both blocked and one now a window. Central stone steps ascend to left. Arched-headed lintel to C20 panelled door beneath landing. C20 glazed doors above. Two window openings to first floor.

Lower extension set back to right: two segmental-arched cart-shed openings with quoined reveals and monolithic central pillar. Quoined door surround to left. Two square openings to loft and another small opening to right. Short extension to rear right corner of range not of special interest.

Included partly for group considerations.

- 4.28** The significance of the barn and outbuildings primarily resides in their architectural and historic interest as examples of rural vernacular agricultural architecture. The historic value of The Barn and Farm Buildings lie in their association with Royd Farm as one of the original farms which comprised the pre-industrial settlement of Deepcar. Using local materials and detail, the buildings have evolved over several centuries and were converted to residential use approximately 25 years ago. The barn is an L-shaped building on the north side of Royd Farmhouse.
- 4.29** Although the barn is now in residential use, it was built as a functional agricultural building and was not built to have views across the appeal site. The barn was granted planning permission in 1982 to be converted from an agricultural building to 3 residential dwellings and garages (application reference 81/01585/LBC). The then existing elevations submitted with the

planning application are included along with a photograph that I took of the north west elevation in March 2021. The 1981 as existing north west elevation shows that prior to the conversion being undertaken, there were two shuttered openings at just below eaves height along with four small rectangular openings at what is now 1st floor height (Appendix 1 Fig. 28). At ground level there were two small functional windows at the north end of the barn, a blocked-up doorway within which there was a shuttered opening and a second blocked up archway with a smaller door within it. The openings at 1st floor level were there to provide light and ventilation and not to provide a view over the appeal site. The windows on the ground floor were to provide light and ventilation into an area at the northern end of the barn not to create a view of the appeal site. The offshoot at the northern end of the barn had no openings or windows. The north east elevation had three small windows and a door and the lower eastern part of the barn had two doors and no windows. These elevations clearly demonstrate the agricultural nature of the building prior to the conversion works.

- 4.30** The barn was listed in 1978 when it was still an agricultural building. The internal and external alteration to the barn have resulted in loss of some historic fabric, the conversion of some of the then existing openings into windows, the insertion of a number of new windows and also wooden and glassed doorways as demonstrated by comparing the photograph taken in March with the 1981 elevation plans (Appendix 1 Fig. 28). The chimneys were added as part of the conversion works. The views created by the windows created and/or modified in the conversion works, are a modern creation for the conversion from agricultural to residential use and they do not contribute to the heritage significance of the barn.
- 4.31** While the conversion is clearly of quality, the loss of the interior detailing of the barns as agricultural buildings has reduced their significance to some degree as they are no longer agricultural buildings and no longer have any direct association with the former fields of the farm. They are also surrounded by domestic gardens, quite changed from a working farmyard barn. These alterations and change of use have led to the significance of the barn to be reduced but not to the extent of it no longer meriting its grade II listing status.
- 4.32** From the listing description of the farmhouse and the barns, it is not clear if the pigsties that are located on the western boundary of the farmhouse are specifically included in the listing. However, as they are clearly contemporary with the farmhouse and are marked on all the historic mapping, they are considered to be curtilage listed as they pre-date 1948 and are in the same ownership as the farmhouse. The significance of the pigsties resides in their vernacular functional architecture and their historic interest as part of the Royd Farm complex. The pigsties have a functional relationship with the farmhouse. They are oriented to face into the garden of the farmhouse with the feeding troughs located on the east side of the building facing Royd

Farmhouse. There are no windows or other openings facing out to the appeal site. As outlined in paragraph 3.9 above, the committee report concluded that the scheme would not affect the appearance of this structure as an outbuilding in the garden of the farm and consequently the impact on the setting of the pigsties would be low.

Setting and its Contribution to the significance of Royd Farmhouse and adjacent barn and outbuildings

Immediate Setting

- 4.33** Royd Farmhouse, the barn and former outbuildings are located on the west side of Carr Road at the junction with The Royd and form part of the original hillside hamlet of Royd. The farmhouse and barn are in a courtyard style arrangement which in turn is set in the gardens of the house and barns (Appendix 1 Plates 1 & 2). A later stone-built house (Royd Cottage) is located on the south side of Royd Farmhouse (Appendix 1 Plate 3). It is within this area that the setting has a very strong positive contribution to the significance of the listed buildings. Each of the buildings that form this former farm complex is a key aspect of this part of the setting and collectively they have an additional group value.
- 4.34** The houses on the north eastern side of the Carr Road/The Royd junction are a prominent aspect of the setting to the east of the farm complex (Appendix 1 plate 2 & Figure 20). They are first depicted on the 1893 1:2,500 map (Appendix 1 Fig. 2). There is a line of stone built terraced houses at the eastern end of The Royd as it turns to the south (Plate 4). This line of terraced houses is also first depicted on the 1893 OS map (the 1855 1:10,560 scale map of the area is not clear enough to discern if these houses were present at that date). As early elements of the Royd hamlet, these two sets of houses are a key element of the setting historically and in relation to views from and to the listed buildings and have a strong positive contribution to the significance of Royd Farmhouse and barn.
- 4.35** The 1970s housing that fronts the rest of the opposite (east) side of Carr Road to Royd Farmhouse (Appendix 1 Plates 5 & 6) have no historic relationship to the farm complex and have a modest negative contribution to the significance of Royd Farmhouse and barn. They form part of the wider expansion of the residential area of Deepcar in the 1970s/80s/90s and have subsumed Royd Farm and Royd hamlet into Deepcar.

Appeal Site

- 4.36** The appeal site is located to the west of Carr Road and forms part of the former agricultural setting of Royd Farmhouse, the adjacent barn and outbuildings. As outlined in paragraph 4.23, although there is no documentary evidence that demonstrates that the appeal site formed part of the historical landholding of Royd Farm, it is a reasonable assumption that the

fields that form the appeal site were owned by and farmed from Royd Farm. Therefore, the appeal site has a positive contribution to the significance both due to historical association and visually.

- 4.37** The farmhouse and barns can be seen from most of the appeal site (Appendix 1 Plates 7-10), although views of the farmhouse and barn are not possible from the south eastern area of the site adjacent to Carr Road where Royd Cottage south of the farm and trees within its landholding block the view (Appendix 1 Plates 11 & 12). The listed farmhouse and barn are seen with the 1950s/60s/70s houses on the east side of Carr Lane behind them (Appendix 1 Plate 7 – 12). Royd Cottage is a prominent building on the south side of the farmhouse in views toward Royd Farmhouse from the appeal site Plates 7, 11 & 12). Royd Cottage was built in the early 2000s.

Wider Setting

- 4.38** The wider agricultural environs of Royd Farm also have a positive contribution to the significance of the farm complex as it places it in the historic agricultural context of the farm.

Views out from the farmhouse & barn

As outlined in paragraph 4.25 above, Royd Farmhouse is orientated more to Carr Road than to the fields to the west of it. There are fewer windows on the rear elevation of the house with only one window with a clear view to the west out across the appeal site with Hollin Busk in the distance. This is a small 1st floor window in the west facing rear elevation of the older part of the farmhouse. This is not a key view from the house as the farmhouse is orientated to face Carr Road on the opposite side of the house. There is a view out from the garden through an original gate on the south side of the pigsties (Plate 25). These views have a positive contribution to the farmhouse. However, the strong likelihood is that the area of land around the pigsties and between them and the house will not have been domestic garden as now, but of a more agricultural nature.

- 4.39** There are also views out from the garden and the west facing windows of the north-south orientated part of the barn. As outlined above in paragraph 4.25, the barn was not built so as to have views out across the appeal site and the wider landscape. The original openings would have been to allow access, provide light and provide ventilation to a very functional agricultural building. Consequently, the current apparent intervisibility with the appeal site is a modern creation from when the barn was converted into residential in the 1990s, along with the creation of domestic gardens. Views out from the north facing elevation of the barn are largely blocked by tall trees (Appendix 1 Plate 10). Consequently, while the view out from the barn does have a positive contribution to the significance of the barn, this contribution is very limited.

Views Toward Royd Farmhouse & Barn from Hollin Busk Lane

- 4.40** Royd Farm can be experienced from within the wider landscape. It can be seen from most of Hollin Busk Lane. Appendix 1 plates 13 – 17 present the journey from Hollin Busk toward Carr Road/Hollin Busk Lane junction to the south east of the appeal site. This sequence of photographs demonstrates that, from where the farmhouse and barn can be first seen from the edge of the built area of Hollin Busk, it is seen in the context of the 1970s houses that front Carr Road which are more prominent than the listed buildings. Royd Cottage is also more prominent than the listed buildings. The listed buildings can be discerned in the further away views, but no architectural detail is readily appreciable (Appendix 1 Plate 13 & 14). The roof and some of the 1st floor windows of the barn and the chimneys of the farmhouse can be seen but due to the distance, the architectural detailing cannot be appreciated.
- 4.41** The farmhouse and the western arm of the barn become steadily more visible as one travels east along Hollin Busk Lane but, due to the arrangement of the buildings that form the farm complex, the details of the individual buildings are difficult to appreciate. As can be seen in Plates 13 to 17, in the views from further away, very little detail of Royd Farmhouse can be appreciated due to its angle whereas the 1st floor and roof of the western elevation of the barn can be seen more clearly. However, for much of Hollin Busk Lane, it is not possible to clearly discern which are the listed buildings and which are not. As an observer moves toward the eastern end of Hollin Busk Lane, the architectural detail of Royd Farmhouse becomes more discernible but is filtered by one of the mature trees in the garden of the farmhouse (in summer the tree will reduce the visibility further than in winter) (Appendix 1 Plate 15 & 16).
- 4.42** The final photograph of the series along Hollin Bask Lane, shows that by the time an observer gets close to the junction with Carr Road, Royd Cottage has started to obscure the detail of Royd Farmhouse. In the views from Hollin Busk Lane, the appeal site can be seen immediately in front of the farmhouse and the barn.
- 4.43** These views from Hollin Busk Lane have a positive contribution to the listed buildings as they form part of the agricultural context of the listed buildings. However, this contribution is considered to be limited due to the inability to appreciate the architectural interest of the buildings as described above. The listed buildings are 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.

Views Toward Royd Farmhouse & barn from the South

- 4.44** The Royd Farm complex is just discernible from the higher ground to the south along Cockshot Lane, but this view does not enable an appreciation of

significance of the listed buildings (Appendix 1 Plate 18). The listed buildings of Royd Farm are not visible and consequently, views from the high ground to the south do not contribute to the significance of the listed buildings (Appendix 1 Plate 19 which is taken from the higher ground of the golf course c. 20m west of the footpath).

Views Toward Royd Farmhouse from Fox Glen

- 4.45** The appeal site is located immediately to the south east of Fox Glen (also called Clough Dike on historic OS maps). This a steep and deep valley through which there are a number of pathways. The listed barn at Royd Farm can be glimpsed through the trees from the pathway on the high sides of the valley (Appendix 1 Plates 20 & 21). In spring and summer when the leaves are out, these views will be heavily filtered or even blocked. In these views, the barn is seen with the backdrop of the 1970s housing on the east side of Carr Road. The architectural detailing and layout of the farm complex is hard to discern in these views. It is therefore considered that these views have a neutral contribution to the appreciation of the significance of Royd Farmhouse and barn.

Barn approx. 30m East of No 15 The Royd (Grade II NHLE 1193193)

- 4.46** The barn is located c. 150m to the south east of the appeal site. The listing description states:

Barn. Probably C17. Cruck-framed, coursed, hammer-dressed gritstone, stone slate roof replaced by corrugated iron sheets to rear. 3 bays, right bay a cowhouse with hayloft over and front outshut. Cart entrance to left with wood lintel, square window opening to right. Doorway to right of outshut with quoin reveals and deep stone lintel. Interior: 2 cruck pairs now buttressed by an axial stone wall in the central bay. Cruck blades set on padstones. Wall tie beams, single purlins, one truss with upper tie beam and saddle at apex, the other truss with crossing apex square set ridge. Roof over cowhouse bay largely altered.

- 4.47** The significance of the barn primarily resides in its vernacular architectural interest and historic interest as an example of a fairly early rural vernacular agricultural architecture (Appendix 1 Plate 22). It forms part of the original hillside hamlet of Royd. It is broadly contemporary with Royd Farm. There is no evidence that they were in shared ownership previously. The barn has been converted into residential usage, which has reduced the significance of the barn as it is no longer an agricultural building.

Setting and its Contribution to the significance of Barn approx. 30m East of No 15 The Royd

- 4.48** The barn is located within a 1990s housing estate (Appendix 1 Plate 22 & 23). This has removed the former agricultural setting that the barn would originally have had. No 15 The Royd which is one of the older buildings within the original area of the hamlet is located to the west of the barn. This has a positive contribution to the significance of the barn. Despite the barn being now located and primarily experienced from within the 1990s housing estate, its heritage significance can still be appreciated.
- 4.49** The barn and Royd Farm are contemporary with each other and collectively form elements of the original hamlet, and consequently they have a mild positive contribution to the historic interest of all three listed buildings. However, there is no intervisibility between the barn and Royd Farmhouse and barn (15 The Royd has blocked this intervisibility since at least 1893). Consequently, this historical association cannot be experienced or appreciated by an observer on the ground. The appeal site cannot be seen from the barn and vice versa and there are no views from further afield that include the barn with Royd Farm and/or the appeal site. Therefore, when considering the setting of the barn (i.e. the area within which the barn is experienced), the appeal site makes no contribution to the significance of the barn.

GPA3 Stages 3 & 4

The Impact of the Proposed Development on the Significance of Royd Farmhouse and adjacent Barn & Outbuildings

- 4.50** As outlined above, the appeal site forms part of the setting of Royd Farmhouse and barn. The appeal site forms a horseshoe shape to the north west and south west of the listed buildings. The proposed development comprises of a residential scheme of up to 85 units which will be accessed from Carr Road to the north of the listed barn (Appendix 1 Figure1).

Immediate Setting

- 4.51** The immediate setting of the farmhouse and the barn is their front and rear gardens, the courtyard area between the farmhouse and barn, the associated curtilage listed buildings, the section of Carr Road to the east of the farmhouse and the older buildings that form the historic core of Royd on the east side of Carr Road along The Royd. These key elements of the setting of the two listed buildings will be unaffected by the proposed development and therefore the contribution that this key aspect of the setting provides to the significance of the buildings will be unaffected.

4.52 A key aspect of the gardens of the farmhouse and the barn that has to be borne in mind is that historically, they are unlikely to have been used as gardens as they are today. The current garden areas of the barn would have been working areas of the farm with possibly animals, storage of farm equipment as well as other functional farm related activities. The presence of the pigsties in the garden of the farmhouse also implies that the same would have been true for at least part of the rear garden of the farmhouse historically.

Former Farmland Setting

4.53 The development will result in the loss of the fields immediately adjacent to the listed buildings. This land will no longer be in agriculture, but not all of it will be built on and as explained below, there is thoughtful separation between the development and the listed buildings. As outlined in the Orion Heritage January 2020 Heritage Statement submitted in support of the planning application, this is considered to result in less than substantial harm to the significance of the listed buildings. This is a conclusion that the Committee Report also came to based on the advice of the City Council's Conservation Officer (as discussed above in paragraphs 3.2-3.5 & Appendix 2). This is a conclusion that I agree with.

4.54 As outlined in paragraphs 4.36 to 4.37, the fields currently have a positive contribution to the significance of the farmhouse, barn and outbuildings as they form part of the wider agricultural context of the buildings. They form part of the assumed original joint ownership and the fields would once have been farmed from Royd Farm. The contribution of the fields to the significance of the designated heritage assets will be lost. Despite the loss of the fields, as the core of the significance of the buildings lies within the buildings themselves, there will not be a material adverse effect on the architectural and historic interest of Royd Farmhouse and the barn & outbuildings themselves. Therefore, contrary to Reason for Refusal 1 and Council's Statement of Case, I do not agree that the loss of the fields equates to substantial harm as the significance of the assets would not be either vitiated altogether or very much reduced.

4.55 The presence of the listed buildings has been a key factor in the original design of the proposed development so as to reduce and minimise the harmful effects of the scheme on the significance of the listed buildings. As outlined below, the design of the scheme has been further revised so as to reduce and minimise the effect of the proposed development further. The detail of this revision to the scheme is explored in more detail below, but in summary, the houses proposed in the original design in the area to the west of Royd Farmhouse has been removed from scheme and replaced with open space. This along with the open space that was retained to the west of the barn in the original scheme, increases the open space buffer around the two listed buildings significantly (Appendix 1 Fig. 26). Details as to the boundary

treatment of the retained field to the wets of the barn has also been provided which has been designed to filter views of the new scheme from the barn. These changes to the scheme accord with Ms Mair's suggestion as to further mitigation works that would be appropriate (Appendix 2).

Views out from Royd Farm & Barn

- 4.56** As outlined in paragraph 4.28 and shown on Plates 7-10 Appendix 1, there is clear intervisibility between the designated heritage assets and the appeal site and therefore the proposed development. Due to the design of Royd Farmhouse, views directly out of the house into the appeal site will only be possible from a 1st floor window in the older (southern) part of the house (Appendix 1 Plate 24).
- 4.57** There are a series of windows and glazed doors along the western elevation of the barn out across the appeal site (Appendix 1 Plates 8 & 10). However, as outlined above (paragraphs 4.29 & 4.30) the majority of these windows are later additions or enlargements of original openings that were inserted when the barn was converted to residential usage. They are therefore not views that would have been possible historically. There would have been views out across the appeal site from the original doorway in the western elevation and any other original openings in the western elevation, but these would have been functional openings to enable access to the interior by people and livestock and also to allow some light into the building. Historically they were not created to enable an appreciation of the appeal site or the wider landscape beyond. Consequently, it must be borne in mind that there would have been limited opportunity to experience the appeal site from within any of the listed buildings historically. The current views from residential windows are not historic views and are a late 20th century creation. Therefore, the views that are possible currently from the barn contribute little to the heritage significance of the barn.
- 4.58** There are views out from the gardens of the farmhouse and barn across the northern part of the appeal site (Appendix 1 Plates 25 & 26). The proposed development will consequently lead to a change in these views. However, these gardens, as explained above, were either not gardens historically (in the case of the converted barns and outbuildings) or likely to be very different to the historic areas around a pigsty.
- 4.59** The scheme has been designed so as to minimise the impact of the scheme on the listed buildings. The red line area of the appeal site excludes a large rectangular area between the appeal site and the farmhouse & barn. This will therefore be retained as a grass field thereby providing a buffer zone between the proposed development and the barn. The site boundary in this area will be enhanced by existing planting to minimise views of the appeal site.

- 4.60** The proposed development has been devised so as to reduce the visual effect in the areas of the scheme that can be seen from the listed buildings. The access will be from Carr Road to the north east of the barn within (Field E Appendix 1 Fig. 22) with a line of houses on the south side of the spine road of the scheme. These 2 storey houses are located on land that is lower than the barn with rear gardens backing on to driveway and gardens of the East -West oriented arm of the listed barn. The houses will be c. 47m to the north of the listed barn (Appendix 1 Fig. 23). The site boundary in this area comprises tall thick trees that already almost entirely block intervisibility with this area of the site.
- 4.61** The parts of the scheme that will be within the two existing fields to the north and north west of the barn (Fields C & D Appendix 1 Fig. 22) will be separated from the barn by a rectangular field that lies outside of the red line area of the scheme. The rear of the houses that front the spine road will be between 47m and 79 m away from the barn and will have their rear gardens facing the rectangular field that separates the site from the barn (Appendix 1 Fig 23). The boundary along the rear gardens will be planted with native hedgerow with occasional trees, which as they mature will filter views of the houses from the barn. The topography of this area drops from c. 242m AOD at the barn to c. 239m AOD along the line of the houses in Field and dropping further out to the northern site boundary D (Cross Section Y-Y & Z-Z Appendix 1 Figs. 24, 24b & 24c). This, allied with the buffer created by the retained field and the planting of the appeal site boundary will ensure that the new houses in this area will be visually recessive to the barn. The cross sections demonstrate that the new housing will be both separated by from the listed barn by open space and that the housing will be lower than the barn and will be progressively lower the further away from the barn one goes. The houses will not break above the top of the tree line of the woodland in Fox Glen and will also not block views of Hunshelf Bank on the north side of the valley, the top of which is c. 295m AOD. The barn is at c. 243m AOD and so views of the bank will not be obscured by the proposed development (the trees in Fox Glen rise higher than the housing will do so). There will also be views of Hunshelf Bank in the gaps between the houses of the appealed scheme as well.
- 4.62** The illustrative layout of the scheme in the area to the west of the rear of Royd Farm has been redesigned from the illustrative layout submitted with the planning application (Appendix 1 Fig. 23). This has removed the houses that were proposed to the west of the farmhouse and the pigsties and has replaced them with an area of open space and drainage attenuation. The nearest unit will 45 m to the west of the south west corner of the farmhouse. However, this will be offset from the view out from the rear window in Royd Farmhouse that overlooks the appeal site and from the view through the gate in the rear wall of the farmhouse's garden. Views out across the site from the conservatory on the rear wall of the farmhouse are blocked by the existing pigsties. The nearest house in the line of the view from the window and

gateway will be 112m to the west of the house. As shown on Appendix 1 Fig. 25, the revision to the layout to the rear of the Royd Farmhouse house will retain a view cone from the rear window and garden through the development out to the countryside and the built-up area of Hollin Busk beyond the appeal site to be retained. The view will include the houses either side of the open space so whilst there will be a change in this view, the link to the fields on the west side of the southern end of Fox Glen will be retained.

- 4.63** The parameter plans note that the scale and detail of the dwellings to the south-west and north-east of Royd Farm are lower and of simpler materials, which minimises their impact on the setting of Royd Farm.
- 4.64** The scale and detail of the buildings reflects that of the heritage assets, which, whilst not presenting a pastiche which would undermine Royd Farm, carefully extends its vernacular vocabulary. Parameter Plan 06, REV C Character Areas, outlines the character of the three zones of the scheme. As well as the open space to the west of Royd Farmhouse, the most sensitive area of the site to the west/south west of Royd Farmhouse will utilise a simple roofscape and a limited high-quality palette of materials. Views of the houses to the west and north west from the barn will be across the retained open space that is outside of the red line area to the west of the barn and will be through the native hedgerow and occasional trees that will be planted along the site boundary. This will filter, but not block, views of the development and will not be incongruous in this rural context and not detract from the significance of Royd Farm and the barn.
- 4.65** The layout of the proposed scheme does not present hard boundaries which would visually jar with the listed buildings. Gardens generally face the heritage assets, and the development edges are uneven, reflecting the organic evolution of a small village. Although Royd Farm is bounded on three sides by the appeal site, the amorphous nature of the layout of the proposals, along with the soft edge of the planting and the orientation ensures that gardens face Royd Farm & the barn thereby reducing any sense of enclosure.
- 4.66** As outlined in paragraph 4.20, it is assumed that historically Royd Farm and the appeal site were in joint ownership historically and that the appeal site was farmed from Royd Farm. The appeal site and Royd Farm are no longer in joint ownership. Although the listed buildings are located within a former farm complex, they are no longer have any agricultural purpose. The Royd Farm buildings are now functionally related to the residential developments on the opposite side of Carr Road. Therefore, the connection of purpose between the appeal site and heritage assets is no longer applicable, although the historical connection is acknowledged.
- 4.67** It is therefore concluded that while the proposed development will be visible from a rear window of the farmhouse and the rear windows of the north –

south arm of the barn and the rear gardens of both buildings and will involve the loss of the agricultural fields immediately to the west and north of the designated heritage assets, the design of the development has taken considerable steps to control and minimise the impact on the heritage assets. As outlined above, views from the conservatory of the farmhouse across the appeal site are obscured by the pigsty and so this, combined with the design changes to the scheme will not affect views from the conservatory.

Wider Setting

- 4.68** As outlined in paragraphs 4.32-4.36, Royd Farm and the adjacent barn can be experienced from places within the wider landscape.

Views Toward Royd Farmhouse and Barn from North along Carr Road

- 4.69** To the north of the barn, the access road and the housing on both sides of that road will be the main change within the setting. Currently, the designated assets are barely experienced or visible as an observer moves south along Carr Road due to the existing screening from tall trees (Appendix 1 Plate 27). Whilst there may be some very limited glimpses of the Listed Buildings and the proposals, the fact that their design is intended to reflect local grain and scale will result in the buildings not appearing incongruous from this location. 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.

Views Toward Royd Farmhouse and Barn from Hollin Busk Lane

- 4.38** The views of Royd Farmhouse and the adjacent barn from Hollin Busk Lane from the west and also from a section of Carr Lane to the south east of the appeal site will be changed by the proposed development. The proposed development will obscure views of the two designated heritage assets from Hollin Busk Lane. However, as outlined in paragraph 4.38, these views currently have only a limited contribution to the appreciation of the significance of the two listed buildings due to a combination of distance, topography and the arrangement of the buildings themselves means that the significance of the buildings is hard to discern. From the western end of Hollin Busk Lane, the presence of the listed buildings can barely be discerned as being listed farm buildings separate from the 1970s housing backdrop of Deepcar. When an observer is closer to Hollin Busk Lane/Carr Road junction, the layout of the listed buildings, along with Royd Cottage obscures different parts of each of the buildings thereby reducing the ability to appreciate what the buildings and their architectural detail. Furthermore, as outlined in paragraphs 10 - 13 of the GPA3, not all views of a designated heritage asset of

equal importance. Paragraph 10 of GPA3 (CD7.3) list various types of view that contribute more to the understanding of significance. These are:

- those where the composition within the view was a fundamental aspect of the design or function of the heritage asset
- those where town- or village-scape reveals views with unplanned or unintended beauty, those with historical associations, including viewing points and the topography of battlefields
- those with cultural associations, including landscapes known historically for their picturesque and landscape beauty
- those which became subjects for paintings of the English landscape tradition, and those views which have otherwise become historically cherished and protected
- those where relationships between the asset and other heritage assets or natural features or phenomena such as solar or lunar events are particularly relevant

4.39 The views from Hollin Busk Lane are not a fundamental aspect of the design of function of the farmhouse or barn, there are no specific historical or cultural associations and there are no relationships between the designated assets and any other heritage assets or natural features. The views from Hollins Busk Lane 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 is a minor effect.

Views Toward Royd Farmhouse and Barn from Wider Landscape

4.40 The barn can also be experienced from a short section of the north western end of Hollin Busk Lane near the junction Coal Pit Lane to the west of the appeal site that will also be altered by the proposed development (Appendix 1 Plate 28). However, due to the distance, Royd Farmhouse and barn are not discernible as clearly identifiable historic farm buildings. Consequently, this view does not contribute to the significance of Royd Farm and barn and so this change will have no effect on the significance of the two assets.

4.41 Royd Farm is not experienced in views from elsewhere, such as the high ground near Walders Low and consequently, the proposed development will have no effects on views from elsewhere.

Conclusion as to the Level of Harm on Royd Farm and Barn

4.42 It is acknowledged that in pure policy terms, there are only three levels of effect on the significance of designated assets which is no harm, less than substantial harm and substantial harm. However, in practice, there is a range of effect within less than substantial harm from at the lowest end, a change within a setting that has an effect that is slightly more than no harm to an

effect at the top of the range that is close to substantial harm. As outlined in section 3 of my proof, substantial harm is a high test. Bedford Borough Council v Secretary of State for Communities and Local Government & Nuon UK Ltd ([2013] EWHC 2847 (Admin) (CD5.5) is of particular relevance here as this has established that substantial harm equates to an impact that would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced. Therefore, less than substantial harm has range that is just above no harm right up to an effect that is getting close to the significance if an asset be very much reduced or removed altogether.

- 4.43** Paragraph 76 of *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* (CDX5.7), offers a clear view in relation to the concepts of substantial harm and less than substantial harm:

“The same can be said of the policies in paragraphs 195 and 196 of the NPPF, which refer to the concepts of “substantial harm” and “less than substantial harm” to a “designated heritage asset”. What amounts to “substantial harm” or “less than substantial harm” in a particular case will always depend on the circumstances. Whether there will be such “harm”, and, if so, whether it will be “substantial”, are matters of fact and planning judgment. The NPPF does not direct the decision-maker to adopt any specific approach to identifying “harm” or gauging its extent. It distinguishes the approach required in cases of “substantial harm ... (or total loss of significance ...)” (paragraph 195) from that required in cases of “less than substantial harm” (paragraph 196). But the decision-maker is not told how to assess what the “harm” to the heritage asset will be, or what should be taken into account in that exercise or excluded. The policy is in general terms. There is no one approach, suitable for every proposal affecting a “designated heritage asset” or its setting.”

- 4.44** What the Court in this case is saying is that the approach of the NPPF paragraph 193-196 process is applied (as per *Jones v Mordue* [2015]), and when the balance is found to result in harm, that harm is to be given considerable weight. This is consistent with the statutory duty of S66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* to have special regard to the desirability of preserving the building or its setting. The decision maker then identifies the public benefits of the proposed development which are then weighed against the harm to the significance heritage assets in question. These benefits can be both heritage related and well as benefits that have nothing to do with heritage matters.
- 4.45** In relation to Royd Farmhouse and the adjacent barn, the proposed development will result in the loss of the contribution that agricultural fields make to the significance of the two designated heritage assets and

consequently, there will be some harm to the significance of Royd Farmhouse and the barn & outbuildings. This is considered to equate to less than substantial harm. The architectural and historic interest of the buildings themselves will not be reduced and will be readily apparent. The core of the setting, which is the collection of former farm buildings and their gardens will be unaffected, as will the setting to the east of the farm.

- 4.46** This harm is considered to be in the lower end of the less than substantial range and therefore paragraph 196 of the NPPF is the relevant test in this instance, not paragraphs 194 and 195 which address substantial harmful effects on the significance of a designated heritage asset. Paragraph 196 requires the decision maker to weigh the harm to a heritage asset against the public benefit of the proposed development. As per paragraph 193, the decision maker is required to give this harm considerable weight. However, per *R (James Hall and Company Ltd) v City of Bradford MDC [2019] EWHC 2899 (Admin)*, *HHJ Belcher (CD5.1)* as quoted on paragraph 2.33 above, where the harm to the significance of a heritage asset is toward the lower end of the less than substantial harm range, as is the case here, even following the application of considerable weight to that harm, the potential for the ability of the public benefits to outweigh this harm, is greater than where the harm is higher on the less than substantial harm range. This planning balance exercise is a planning not a heritage task and this is dealt with by Mr Bolton.
- 4.47** Reason for refusal 1 and the Council's Statement of Case both allege that the proposed development will result in substantial harm. In light of the above consideration of the level of harm, this conclusion suggests that the Council's calibration of harm in the Council's Statement of Case is far too high. Case law has established that in relation to an effect on the setting of an asset, substantial harm would be an effect akin to partial or total demolition. As outlined in the consideration of the effect on the significance of Royd Farmhouse and barn, the effect is significantly lower than an effect that would largely vitiate the significance of the two assets. Consequently, the effect of the proposed development cannot be substantial harm and therefore paragraphs 194 and 195 of the NPPF do not apply and instead it is the planning balance process as required by paragraph 196 that should be applied.

The Impact of the Proposed Development on the Significance of Barn approximately 30 metres to the east of Number 15 The Royd

- 4.48** As established in Paragraph 4.44, the appeal site is considered not contribute anything to the significance of the other barn to the east of 15 the Royd. There is no intervisibility or co-visibility between that barn and the site and there is no historic association between the appeal site and that barn. The proposed development will have no effect on the setting of the barn and there will be no perceivable effect on the significance of the barn. Therefore, paragraphs 193-196 of the NPPF do not apply in relation to the barn.

4.49 As outlined in paragraphs 1.28, 129 & 1.32 of the heritage Statement of Common Ground, the Council and the appellant agree that there will be no effect on the significance of the barn.

5.0 Summary and Conclusions

- 5.1** Hallam Land Management has appealed against the refusal of outline planning permission for the erection of up to 85 including open space (application ref: 17/04673/OUT).
- 5.2** Reason for refusal no 1 outlines that the Council considers that the proposed development will result in substantial harm to *"... a collection of Grade II 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."* The reason refusal therefore states that the proposed development is 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.
- 5.3** This refusal on heritage grounds is contrary to the Zoe Mair's, Sheffield City Council's Principal Planning Officer (Conservation & Design) consultation response to the planning application which concluded that the effect of the scheme equated to less than substantial harm.
- 5.4** The refusal is also contrary to the committee report which recommended approval subject to conditions. The report included a consideration of the significance and setting of the farmhouse and barn and the effect of the proposed development on this. The report concluded that even following the application of great weight, the harm arising was less than substantial and that the harm was outweighed by the public benefits as per paragraph 196 of the NPPF. Paragraph 2 of page 118 of the committee report is categorical in stating that the proposed development would not result in substantial harm to Royd Farmhouse and other designated heritage assets in the locality.
- 5.5** The committee report is also categorical in concluding that the proposed development is considered to have no effect on the setting and significance the grade II listed Barn approximately 30 metres to the east of Number 15, The Royd to the east of the appeal site (para 8 of page 116). However, the Council's Statement of Case outlines that the Council will argue that there will be substantial harm to the setting of this barn, as well as Royd Farmhouse and its adjacent former barn.

Significance & Setting of Royd Farmhouse & Barn

- 5.6** The significance of Royd Farm resides primarily within its vernacular architectural and historic interest as an example of a 17th and 18th century farmhouse. It is a vernacular building which uses local materials and construction techniques and exhibits the evolution of an agricultural dwelling over several centuries. 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.

- 5.7** 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 former farm buildings are in a courtyard type arrangement facing Carr Road, not the appeal site. Both listed buildings are a significant aspect of each other's significance and have a very strong positive contribution to the significance of the other listed buildings of the group. The proposed development will have no effects on these aspects of the setting and its contribution to the significance of the two listed buildings.
- 5.8** As outlined in paragraphs 4.28 – 4.40, the appeal site is located within the setting of Royd Farmhouse and the barn. Although there is no documentary evidence, it is assumed that the appeal site formed part of the land that was farmed from Royd Farm. This historical functional association has a positive contribution to the significance of the farmhouse and barn.
- 5.9** The appeal site and Royd Farm are no longer in joint ownership. Although the listed buildings are located within a former farm complex, they are no longer have any agricultural purpose. The Royd Farm buildings, their gardens and immediate setting are now functionally related to the residential developments on the opposite side of Carr Road. Therefore, the connection of purpose between the appeal site and heritage assets is no longer applicable, although the historical connection is acknowledged.
- 5.10** While there are views out across the appeal site from the listed buildings, these views have a relatively limited contribution to the significance. There is one 1st floor window in the rear elevation of the older part of the farmhouse that overlooks the appeal site. There is also a conservatory on the rear wall of the farmhouse. Views out from the conservatory are a modern creation and do not have historic value. The western and northern elevation of the barn has windows and doorways that provide views across the appeal. However, the barn was a functional agricultural building prior to its conversion to residential dwellings. Consequently, not all of the current windows are original and those that were incorporated into the building to provide light and ventilation, not to provide views over the fields. Consequently, the views from the existing windows have a limited contribution to the significance of the barn.
- 5.11** There are views of the listed buildings from within the appeal site which have a positive contribution to the significance of the buildings.

- 5.12** As outlined in paragraphs 4.35 - 4.38 above, 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. In these views, due to a combination of distance, the arrangement and layout of Royd Farm buildings and the topography, the architectural interest of the buildings is hard to discern. These views from Hollin Busk Lane have a positive contribution to the listed buildings as they form part of the agricultural context of the listed buildings. Consequently, 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. Views from further afield are considered to not contribute to the significance of the listed buildings.
- 5.13** The appealed proposed development has been designed so as to minimise the impact of the scheme on Royd Farmhouse and barn.
- 5.14** The parts of the scheme that will be within the two existing fields to the north and north west of the barn, will be separated from the barn by a rectangular field that lies outside of the red line area of the scheme. The boundary along the rear gardens will be planted with native hedgerow with occasional trees, which as they mature will filter views of the houses from the barn.
- 5.15** The illustrative layout of the scheme in the area to the west of the rear of Royd Farm has been redesigned with the removal of the houses that were originally proposed to the west of the farmhouse and replaced them with an area of open space. This 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.
- 5.16** 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.
- 5.17** In relation to views of the listed buildings from the wider setting, 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.
- 5.18** 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 is a minor effect.

- 5.19** For the reasons as outlined above and in section 4, 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.
- 5.20** 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. As discussed in paragraph 2.18 above, 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 must 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. It is my 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 will not be contrary to UDP policies BE15, BE19 and LR5. This planning balance is not a task to be undertaken by the heritage experts. The public benefits of the proposed development are dealt with by Mr Roland Bolton.
- 5.21** In relation to the grade II listed barn approximately 15m to the rear of 15 The Royd, contrary to the Council's Statement of Case, the appeal site is

considered not to contribute anything to the significance of that barn . There is no intervisibility or co-visibility between the appeal site and the asset. Its setting of the barn is no longer rural as it was subsumed into the residential area of Deepcar in the 1980s. Consequently, the appeal site has no contribution to the significance of the grade II barn and the proposed development will have no effect on its significance. Therefore, 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.

- 5.22** In light of the conclusions of my proof, I do 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.