**APPELLANT'S OPENING SUBMISSIONS**

**APPEAL BY HALLAM LAND MANAGEMENT LIMITED**

**LAND AT JUNCTION WITH CARR ROAD AND HOLLIN BUSK LANE,**

**SHEFFIELD S36 1GH**

**S78 TOWN & COUNTRY PLANNING ACT 1990**

**THE TOWN & COUNTRY PLANNING (INQUIRIES PROCEDURE)**

**(ENGLAND) RULES 2000**

**PLANNING INSPECTORATE REF: APP/J4423/W/21/3267168**

**LOCAL AUTHORITY REF: 17/04673/OUT**

**Introduction**

This appeal relates to land at the junction of Carr Road and Hollin Busk Lane, Sheffield S36 1GH ("the Site").

The Site comprises approximately 6.5 hectares of private agricultural land. Only some 2.52 ha of this is proposed for built development. Agricultural fields are located to the west of the application site and along part of the north western boundary. Fox Glen runs along the remainder of the north western boundary. The Glen contains Clough Dike and has a housing area directly beyond. To the northeast, the site adjoins dwellings and their rear gardens on Carr Road. To the east and south east of the site is a further substantial housing area. A cluster of properties are located along the eastern boundary between the site and Carr Road. These include the Grade II Listed Royd Farmhouse and farm buildings.

The Appellant, Hallam Land Management Limited ("HLM"), is a development company, which has an agreement with the landowner to promote the Site, with a view to obtaining planning permission for residential development. Stonebridge Homes[[1]](#footnote-1) have been identified as the likely housebuilder.

The appeal is against Sheffield City Council's refusal of an:-

"Outline planning application for up to 85 residential dwellings including open space, (all matters reserved except 'access' to, but not within the Site) at Land At Junction With Carr Road Hollin Busk Lane Sheffield S36 1GH” " ("the Application").

The proposal, as first submitted, sought planning permission for the erection of up to 93 dwellings. With the purpose of addressing comments from officers of the Council, the proposal was reduced in scale during the course of the determination of the planning application (January 2020) to "up to 85" dwellings (which included decreasing the area for development). The description of development was amended accordingly. The Application was subject to two rounds of comprehensive consultation[[2]](#footnote-2).

Further to a formal written request being made to DCLG[[3]](#footnote-3), it was confirmed by letter dated 5 October 2017[[4]](#footnote-4) that the Secretary of State does not consider the proposal is likely to have significant effects on the environment and it "is not EIA development". This position is agreed with the Council[[5]](#footnote-5). The Planning Inspectorate's letter dated 23 March 2021 reiterated this position, stating "*The development is relatively small in scale and there would be no likely significant effects in terms of noise, landscape and visual, water, contamination and pollution, flooding, traffic, ecology, or archaeology*".

Further to the Council having consulted with Natural England and completing an HRA screening assessment[[6]](#footnote-6), it is further agreed[[7]](#footnote-7) that the proposal is unlikely to have a significant effect on the habitats or species or increase recreational pressure within the Peak Park SPA, SAC or SSSI and can be screened out from further assessment.

The Application was subject to various stages of scrutiny by the Council and was originally recommended for approval by officers, with a view to being considered at Committee on 4 June 2019. At that time, the Council agreed they were unable to demonstrate a five year housing land supply. Consideration of the Application was deferred to address changes in the 2019 NPPF[[8]](#footnote-8). Subsequently, the application was presented to committee on 14th July 2020. At that time, the Council considered there was a 5.1 year supply of housing land. The officer's professional recommendation remained the same; that planning permission ought to be granted[[9]](#footnote-9). Officers considered the most important policies to be out of date for reasons unrelated to land supply and that the tilted balance was engaged and further that the benefits outweighed the harms of development proceeding.

Members resolved to refuse the planning application. This was[[10]](#footnote-10) on the basis of, "*the significant harmful impact on visual amenity both locally and wider, and the substantial harm to a heritage asset*" (emphasis added). The decision notice[[11]](#footnote-11) was subsequently issued on 20 July 2020. The Appellant submitted an appeal against the decision in January 2021.

**The Appeal Process**

Since the Appeal was lodged, a revised Illustrative Masterplan (dated April 2021)[[12]](#footnote-12) has been submitted[[13]](#footnote-13). The purpose of the revisions is to seek to address further any residual matters of the Council and third parties, by creating a greater undeveloped (with houses) area around the listed buildings. Whilst it is appreciated that the layout is illustrative, the parameter plans have also been updated[[14]](#footnote-14) to allow for the benefits of the revisions to be secured[[15]](#footnote-15). The revisions, which also allow for an additional SuDS detention basin to be provided, are further described in Mr Bolton's planning proof of evidence[[16]](#footnote-16).

**Main Issues**

As set out in the Inspector's note of the Case Management Conference, the following comprise the agreed main issues;

## The effect of the proposed development on the character and appearance of the surrounding area; and

## The effect of the proposed development on the special interest of nearby heritage assets

The note of the CMC states that the inquiry will look at the benefits of the scheme, to be weighed in the planning balance, including housing land supply and any implications of not proceeding with the scheme. Further, there are a number of issues raised by interested parties. Though not reasons for refusal, they are addressed in evidence presented on behalf of the Appellant and witnesses are available to respond to any further matters raised on these topics.

**Landscape**

Mr Denney[[17]](#footnote-17) provides evidence for the Appellants on the first main issue. In addition to referring to the Landscape and Visual Assessment[[18]](#footnote-18) and further supporting material, he relies upon the statement of common ground agreed with the Council's landscape officer[[19]](#footnote-19).

The Landscape and Visual SOCG includes;

## an agreed description of the site; and its relationship with the surrounding area;

## details of the appeal proposal, noting only 39% (2.52 ha) of the overall site is proposed as built development;

## the relevant local policy designation, noting that there are no landscape policy designations affecting the site;

## that the site is not "valued landscape" in the context of the Framework;

## that the content of the submitted LVA is comprehensive and up to date and broadly in line with best practice, albeit the Council have limited criticisms of the lack (at that time) of winter photographs and montages, both of which have now been addressed;

## that the number of visual receptors is comparatively limited and that the 13 viewpoints considered are representative of views of the site, albeit the Council now places more emphasis on views that were considered in the LVA from the north ;

## no material visibility between the Site and the Peak District and thus no greater than negligible effect on it;

## that there would be no greater than minor visual effects from receptors G and K- on the north side of the Stocksbridge Valley;

Mr Denney's evidence addresses the relatively limited areas of disagreement. These are defined by the SoCG as the landscape quality and effects on it, the emphasis placed on views from the north and matters that have now been addressed in terms of winter photographs and montages, neither of which were sought by officers. He considers the location of the Site within its landscape and townscape context and the settlement growth of this part of the valley. He highlights the edge of urban nature of the site and the relatively ordinary nature of the landscape of the site and surrounding area. He finds there to be limited impact to landscape character, save for at a site level, where any development on any greenfield site will inevitably cause significant change and is to be expected; a position with which the Council's Landscape officer agreed and the Council's committee report reflected in concluding that the effects of the scheme were limited and acceptable.

In addressing effects on visual amenity, Mr Denney refers to the original and revised LVAs as well as his own assessment of the site, which has informed his Proof of Evidence. He responds to Mr Ares' criticisms of the LVA in relation to seasonal changes and not providing photomontages. Mr Denney comments upon the LVA's Zone of Theoretical Visibility and the Representative Visual Envelope, in seeking to identify the degree of visibility of the Site and the effects on views. Overall, Mr Denney considers visual effects to be relatively close range and localised. More distant views of the Site from a range of locations are he says, limited and minor or negligible in effect, in line with the SoCG.

In terms of impact on settlement separation, Mr Denney considers that there would remain a significant physical distance between the two areas of local townscape, that the settlements of Deepcar and Stocksbridge have already merged, that there is already visibility of built form across the area in question and that the sense of arrival and departure from built areas would be little different with the proposal in place, particularly given the undeveloped areas of the site clarified by the parameters plans. Any objective of retaining a suitable visual break would not be undermined by the appeal proposals.

**Heritage**

Mr Bourn provides evidence for the Appellants on the second main issue.

The Heritage SOCG includes agreement that;

## The significance of the listed buildings resides primarily in their architectural and historic interest[[20]](#footnote-20);

## The listed buildings have been converted into residential use, which has included various building works[[21]](#footnote-21), reducing their significance;

## The adverse impact of the proposed development should be assessed with regard to its effect on the contribution that the setting of Royd Farmhouse and the adjacent listed barn and outbuildings makes to the significance of those assets.

Mr Bourn's evidence sets out the approach to decision making, the Framework's approach to balance of harms and benefits and the rare instances where substantial harm can properly be found. He refers to the PPG advice that substantial harm is a high test, one where the impact seriously affects a key element of special architectural or historic interest[[22]](#footnote-22) and in particular to case law[[23]](#footnote-23) that substantial harm equates to situations where very much if not all of the significance of the asset is drained away and its significance is either vitiated altogether or very much reduced. He refers to the Council's consideration of the application and the consultation response of the relevant officers which found less than substantial harm and that setting and the character would be preserved. Mr Bourn refers to the Council's committee report, which also reflects this position.

Mr Bourn's evidence refers to the listed buildings as no longer having any agricultural purpose. Rather, their gardens and immediate setting are now entirely residential in character. His view is that the connection of purpose between the appeal site and the heritage assets is no longer applicable, although he acknowledges the historical connection.

Mr Bourn sets out his assessment of the aspects of the listed buildings that contribute to their significance, which in line with the SoCG confirms that their significance rests primarily in their history and architecture, with setting being a comparatively minor component. He explains that even within the setting there are layers of importance, with the courtyard, gardens and the relationship to properties across Carr Road being materially more important than the appeal site. He considers the effects of the proposal in this context. His conclusions reflect the removal of houses that were originally proposed to the west of the farmhouse, which are replaced by an area of open space[[24]](#footnote-24) as well as the non-development of the field to the west of the barns. His assessment is undertaken fully by reference to the stages set out in Historic England's Good Practice Guidance.[[25]](#footnote-25)

Overall, Mr Bourn's conclusion is at the harms are at the lower end of the range of less than substantial effect.

**Approach to determination and Housing land supply**

Mr Bolton's evidence addresses the approach to the determination of the appeal and the relevance to it of the position on housing land supply. He does so by reference to local and national planning policy. This includes considering parts i) and ii) of Paragraph 11 d of the NPPF. He assesses which policies are the most important in the determination of the appeal and the extent to which they are consistent with the Framework. Consistent with the Council's committee report, he finds that when viewed overall, the most important policies are 'out of date' regardless of the land supply position. The corollary of this is that the 'tilted balance' is engaged, subject to the consideration of the heritage issues through the terms of paragraph 196 of the Framework. Having regard to Mr Bourn's evidence, a judgment needs to be made about the weight of those policies and any conflict with them. Mr Bolton's evidence undertakes this exercise. He concludes the most important policies are out of date for a series of reasons; inconsistency with the Framework, over taken by events and lack of being fit for purpose.

He also concludes that the 'tilted balance' is triggered by the Council's inability to demonstrate a five year supply of housing.[[26]](#footnote-26) Mr Bolton provides detailed evidence on housing land supply. It is beyond real doubt that the Urban Uplift to the housing requirement figure is effective for the purposes of the determination of this appeal. On that basis alone the Council is unable to demonstrate a 5 year land supply with a supply of only 4.02 years. If the student units are discounted for lack of any evidential basis to support their inclusion, in line with the PPG (68-034) the supply is 3.25 years. Mr Bolton considers the correct position to be considerably less at 2.56 years when he makes discounts to category A and B sites (which is a matter going to weight).

On this basis, and taking into account the evidence of Mr Bourn, the approach to determination of the appeal is that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

**Other matters**

Though not reasons for refusal, issues relating to highways, ecology and flood risk/drainage have been referred to by third parties including the Friends of Hollins Busk. In addition to the supporting documentation and Proofs of Evidence, the Appellant relies upon the content and conclusions of the topic specific statements of common ground[[27]](#footnote-27). These refer to agreement with the Council and the relevant statutory consultees. The position is fully documented in statements of common ground.

When considered with the Appellant's proofs of evidence on these matters[[28]](#footnote-28), it is submitted (in line with the Council's decision notice) that such matters do not provide a basis to refuse the appeal. Indeed, the evidence refers to a range of benefits (such as significant Biodiversity Net Gain)[[29]](#footnote-29) which would be provided as a result of the proposed scheme.

**Balance**

 Mr Bolton's evidence for the Appellant on planning matters assesses the benefits and harms of the appeal scheme against the relevant planning policies, further to his attribution of appropriate weight to them. In undertaking the balancing exercise, he reaches the clear conclusion when assessed against the Framework as a whole, that the overall balance of harms and benefits indicates clearly that the appeal should be upheld.

Allowing the Appeal would provide significant benefits. There will be market housing, for which there is a considerable shortage, family housing for which there is also a considerable shortage, much needed affordable housing the delivery of which has been and is forecast to be utterly dire if the Councils attitude to the importance of this factor is not reversed. All of this will be on a site that is in a sustainable location and can be developed with modest effects on landscape and heritage considerations, so as to form an appropriately planned extension to the urban area, with considerable green infrastructure and environmental improvements. The appellants will consequently, at the close of the Inquiry, be asking you to approve the appeal and grant planning permission.

Richard Sagar

Robert Moore

Walker Morris LLP

22 June 2021

1. Like Hallam Land Management Limited, Stonebridge is also part of the Henry Boot Group [↑](#footnote-ref-1)
2. Further detail is provided in the Statement of Community Involvement in CD1.30 [↑](#footnote-ref-2)
3. on 31 July 2017 [↑](#footnote-ref-3)
4. CD 1.32 [↑](#footnote-ref-4)
5. Paragraph 5.1 (3) of the Planning SOCG (CD6.7) [↑](#footnote-ref-5)
6. Pursuant to The Conservation of Habitats and Species Regulations 2017 (as amended) CD 2.25 [↑](#footnote-ref-6)
7. Paragraph 5.1 (3) of the Planning SOCG (CD6.7) and section 2.7 to 2.14 of the Ecology SOCG (CD 6.11) [↑](#footnote-ref-7)
8. See section 2.9 of the Planning socg CD 6.7 [↑](#footnote-ref-8)
9. CD 1.7 – p97 and p98 [↑](#footnote-ref-9)
10. See paragraph 6a.6Minutes of the meeting at CD 1.8 [↑](#footnote-ref-10)
11. CD1.9 [↑](#footnote-ref-11)
12. CD1.3a [↑](#footnote-ref-12)
13. On 5 May 2021. See correspondence at CD 6.23, including Mr Bolton's cover email (11:03) submitting the plans and explaining their purpose; and PINS' reply dated 10 May confirmed the Inspector was minded to accept the plans for consideration at the inquiry. The Inquiry Site Notice referred to the revised plans, as per the Inspector's direction. The correspondence also includes reference to the public inquiry website, details of which were provided to the parties on 24 May 2021. [↑](#footnote-ref-13)
14. CD1.4 a to f/g [↑](#footnote-ref-14)
15. It is agreed (paragraph 2.6 of the Planning SOCG) that the parameter plans are intended to be conditioned. This is in addition to the Site Location Plan (CD1.1) and the Site Access plan dated 29 November 2017 (CD1.2) which are also for determination (See paragraph 2.3 of the Planning SOCG). Access within the Site is not for determination but is reserved. The (revised) Illustrative layout plan is not for determination (see paragraph 2.6 of the Planning SOCG). [↑](#footnote-ref-15)
16. See pages 23 and 24 of CD6.15a [↑](#footnote-ref-16)
17. Mr Denney was instructed in 2019 to review the LVA and accompanying material and form his independent opinions as to impacts relating to LVA. Whilst he did not produce the original assessment, he concluded that he agreed with its content. [↑](#footnote-ref-17)
18. CD 1.11a and CD11b and the revised LVA at Appendix 1 to Mr Denney's Proof of Evidence [↑](#footnote-ref-18)
19. CD 6.8 [↑](#footnote-ref-19)
20. Para 1.10 and 1.12 of CD 6.9 [↑](#footnote-ref-20)
21. Including blocking up former doorways; inserting new windows [↑](#footnote-ref-21)
22. NPPG 18a-017 [↑](#footnote-ref-22)
23. Nuon – CD 5.5 [↑](#footnote-ref-23)
24. Capable of incorporating a SuDS detention basin [↑](#footnote-ref-24)
25. Historic Environment Good Practice in Planning Note 3 CD 7.7 [↑](#footnote-ref-25)
26. Based on the Appellant's position on heritage, this remains engaged, in the context of footnote 6 of the Framework [↑](#footnote-ref-26)
27. Ecology CD6.11; Highways CD6.10 and Flood Risk and drainage CD 6.12 in addition to the other socgs. [↑](#footnote-ref-27)
28. Including any relevant mitigation/improvements which would be secured by condition/106 planning agreement [↑](#footnote-ref-28)
29. See paragraphs 7.4 to 7.6 of Mr Goodman's Proof of Evidence [↑](#footnote-ref-29)