



## Appeal Decision

Inquiry opened on 13 April 2021

Site visits made on 9 April and 11 June 2021

**by Martin Whitehead LLB BSc(Hons) CEng MICE**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> August 2021

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**Appeal Ref: APP/J4423/W/20/3262600**

**Former Loxley Works, Storrs Bridge Lane, Sheffield, S6 6SX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Patrick Properties Strategic Land Ltd against the decision of Sheffield City Council.
  - The application Ref 20/01301/OUT, dated 17 April 2020, was refused by notice dated 17 September 2020.
  - The development proposed is a Hybrid Application for change of use of existing buildings to be retained, altered vehicular access from Loxley Road with secondary public transport access from Rowell Lane and associated works with outline approval (with all other matters reserved) for demolition of existing buildings and structures, provision of a residential led mixed-use development that will deliver up to 300 dwellings, reinstatement works, site remediation, green infrastructure, landscaping and associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. The application was submitted in outline form with all matters of detail, except access, reserved for later consideration with the following description: *'demolition of existing on-site buildings and structures, new and enhanced community woodland and the construction of a residential-led mixed-use development comprising residential development, elderly persons accommodation, self-build plots, new and enhanced community infrastructure, new and enhanced landscaping and public realm; vehicular access roads, bus gate and parking areas; accommodation and reinstatement works to retained buildings; site remediation and other associated works'*. However, at the time of the determination of the application, the description had been amended to that given in the above box. I have determined this appeal based on the amended description for the development proposed.
3. I carried out an accompanied site visit on 9 April before opening the Inquiry on 13 April. The Inquiry sat for 11 days on 13 to 16 April, 19 to 21 April, 23 April and 7 to 10 June, closing on 10 June 2021. I carried out a further accompanied site visit on 11 June.
4. Following the close of the Inquiry I have been provided with an engrossed Section 106 Agreement, dated 17 June 2021. The obligations in the Agreement would secure on site affordable housing consisting of 10% of the

gross internal floor area of the dwellings; the provision of a public open space scheme to include maintenance and management; the provision of a Sustainable Drainage Scheme (SuDS) and management plan; financial contributions towards a bus service; and the provision of a community hub, including a convenience store. Having considered the information provided by the Council, including the Community Infrastructure Levy Regulations (CIL) compliance statement, I am satisfied that all these provisions would be directly related, and would be fairly and reasonably related in scale and kind, to the development. Based on this, I find that all the planning obligations would be necessary to mitigate the effects of the development on local facilities and services and they meet the tests in CIL Regulation 122. I have therefore taken them into account in my determination of this appeal.

5. The government published on 21 July 2021 an update to its National Planning Policy Framework (2021 Framework) which replaces the previous version of the Framework published in February 2019. It sets out the government's latest planning policies for England and how they are expected to be applied. I have used the paragraph numbers in the 2021 Framework that relate to those paragraphs referred to in the 2019 version and have considered the amendments made to the relevant paragraphs in the 2021 Framework together with relevant additional paragraphs referred to by the main parties in their follow up comments.

### **Main Issues**

6. The main issues are whether the Council can demonstrate a 5-year housing land supply; whether the proposal would constitute inappropriate development for the purposes of Section 13 of the Framework; its effect on the openness of the Green Belt and the purposes of including land in the Green Belt; its effect on the character and appearance of the site and the surrounding area; its effect on the ecology and biodiversity of the surrounding area; its accessibility by means other than the car; its effect on the risk from flooding; and, if it is inappropriate development, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### **Reasons**

7. The appeal site consists of an irregular shaped area of land stretching along the northern and southern banks of the River Loxley, situated south of Loxley Road (B6077), north west of Sheffield and close to the eastern boundary of the Peak District. It is about 26.9 hectares (ha) in area and is accessed from Storrs Bridge Lane in the west, and from a farm track off Rowell Lane in the east. The site contains a variety of semi derelict buildings and structures, most of which are vacant and some of which are substantial. The main former use, as the Hepworth Refractory site, was a heavy industrial use, which I understand ceased in the 1990s. Those buildings and areas of hardstanding within the site boundary that are currently in use are mainly in the western part of the site and include a variety of businesses and a terrace of 5 dwellings.
8. The appellant has provided illustrative masterplans, the latest of which was submitted in August 2020 and was considered by the Council at its Committee. This forms the basis of the appeal proposal and I have taken it into account in my consideration of this appeal, together with a Design Code that the appellant

has developed. It identifies that the appeal proposal would include a new community hub to provide workspaces. Within this community hub, the proposal indicates that there would be the provision of a local convenience store, together with a heritage centre/museum to portray the site's industrial history and heritage, and a cycle hub facility. In addition, the proposal would provide leisure facilities such as the existing bowling green, walking routes across the site and new community open space.

9. The Council's development plan includes the Core Strategy, which was adopted in 2009, and the saved policies of the Unitary Development Plan (UDP), which was adopted in 1998. Whilst these documents pre-date the Framework, paragraph 219 of the 2021 Framework states that existing policies in a development plan should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. It advises that due weight should be given to them, according to their degree of consistency with the Framework. The National Planning Practice Guidance (NPPG) states that '*policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5 years*', and that '*due weight should be given to relevant policies in existing plans according to their consistency with the National Planning Policy Framework.*'

### **Housing Land Supply**

10. At the Inquiry, the Council reported a 5.4-year supply of housing land, as set out in its '5-Year Housing Land Supply Monitoring Report December 2020'. This is based on a housing requirement, utilising the Standard Method that was applicable at that time, of 2,131 dwellings per annum (dpa) plus a 5% buffer resulting in a total 5-year requirement of 11,188 dwellings. The Council has claimed a net supply of 12,131 as at 1 April 2020, which has resulted in a published supply of 5.4 years.
11. Under paragraph 75 of the 2021 Framework, a 5-year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement. There is no recently adopted plan and the Council has not adopted the process given in this paragraph, which includes the annual position statement needing to have '*been considered by the Secretary of State*'. Therefore, the Council's December 2020 Monitoring Report needs to be appraised in relation to this appeal.
12. Following a critical appraisal of the Council's recently published land supply, the appellant has argued that a realistic deliverable supply is 4.5 years. In addition to deductions for undeliverable housing sites, the appellant has removed student cluster flats from the calculation, which it claims results in a land supply of 3.5 years.
13. The NPPG explains 'Step 1' of the standard methodology as the 10-year period being 10 consecutive years '*with the current year being used as the starting point*'. Taking account of this, the base year for the requirement for this appeal should be 2021. As such, I agree with the appellant that the housing requirement should be determined using the current period of 2021 to 2031 with the affordability ratio adjusted to 5.79, which is an increase from 2019.

14. In terms of supply, at the Inquiry the appellant and the Council produced a 'Summary Sheet' in which the parties set out their position in respect of evidence that the appellant had gathered on some of the sites in the supply. In this Summary Sheet the evidence has been classified either as 'Type 1: Evidence that could have been gained as at 1 April 2020' or 'Type 2: Evidence that could not have been gained as at 1 April 2020'.
15. Of the 32 sites that have been listed, 16 of them were agreed as being within 'Type 1', which the appellant has calculated as representing 1,051 dwellings. However, at the Inquiry the Council disagreed with the appellant that the evidence would suggest a change in the contribution that these sites would make to the 5-year housing land supply. Having examined the evidence provided by the appellant and that given at the Inquiry, I have made my own conclusions on the deliverability of the listed sites.
16. In terms of those sites with full planning permission, to be excluded it is necessary for there to be clear evidence that they would not be delivered in the 5-year period. The appellant has indicated funding issues for the HSBC Hoyle Street site, with a 343-dwelling contribution, and Doncaster Street site, with a 222-dwelling contribution, but the evidence is not clear enough to remove them from the supply. However, the evidence regarding the Pennine Centre, with a 174-dwelling contribution, is clear that it is no longer being developed for residential purposes and so it should not be included in the supply.
17. Other sites with full planning permission that the Council has accepted are unlikely to be delivered include Castle Square, with 22 dwellings, and Crabtree Road, with 14 dwellings. Also included as sites that the Council has accepted the appellant's evidence regarding the likelihood of their deliverability are 50 High Street, with 101 dwellings, and Heritage Park, with 35 dwellings.
18. The sites on the brownfield register without planning permission require clear evidence of housing completions on the site within the 5-year period. These include 213 dwellings at Newstead Estate, which I am not satisfied has sufficient clear evidence to support its delivery in the 5-years, even though the Council has indicated that it would be delivered through its housing stock increase programme.
19. I therefore accept that some of the 'Type 1 sites' that have been agreed with the Council should be removed from the supply, as the Council has not been able to demonstrate their deliverability. Also, as it is the responsibility of the Council to demonstrate a 5-year housing land supply, some of the Type 2 sites should also be removed from the supply. However, I am not convinced that the evidence presented is sufficient to justify the removal of all the sites mentioned by the appellant on grounds of deliverability within the 5 years.
20. The Council has included 2,763 units of student accommodation within the 5-year housing land supply. In this respect, the NPPG accepts that all student accommodation can in principle count towards contributing to an authority's housing land supply, but this is based on '*the amount of accommodation that new student housing releases in the wider housing market*' and/or '*the extent to which it allows general market housing to remain in such use, rather than being converted for use as student accommodation*'. The Council has not demonstrated that it has carried out an analysis to determine these factors but has just added the full amount of student accommodation to the supply.

21. Whilst the above matters would significantly reduce the housing supply that the Council has claimed, I need to also take account of the changes to the Standard Method, which took effect on 16 June 2021 following the 6-month transition period. This means that, for decision making purposes, Sheffield's housing requirement is subject to the cities and urban centres uplift of 35% under Step 4 of a four-step procedure for calculating local housing need, set by the NPPG. The 35% uplift increases the housing requirement to 2,923 dpa using the 2021 base, which results in a 5-year requirement of 15,345 dwellings, taking account of the 5% buffer. The Council has provided insufficient evidence to justify why it should not apply the cities and urban centres uplift after the 16 June 2021 date. Therefore, when applying the 35% uplift to the housing requirement, the Council is unable to demonstrate a 5-year housing land supply, even based on its own housing supply figures.
22. Based on the above, I find on this main issue that the Council has included some housing within its 2020 Monitoring Report that the most recent evidence shows is no longer deliverable within 5 years and has included student accommodation that requires evidence to justify its inclusion. In addition, the Council should now take on board the 35% uplift to its requirement, introduced in changes to the Standard Method. Taken together, this would reduce the Council's housing land supply to significantly below its 5-year housing requirement. Therefore, I conclude on this main issue that, for the purposes of this appeal, the Council cannot demonstrate a 5-year housing land supply.

### ***Whether Inappropriate Development***

23. The site is within the open countryside and lies wholly within the Green Belt as defined by the UDP. UDP Policy relating to the Green Belt comprises GE1, GE2, GE3, GE4 and GE5.
24. Policy GE1, referring to the purposes of the Green Belt, and Policy GE3, regarding new building in the Green Belt, are clearly based on the superseded planning policy guidance note PPG2 (Revised) Green Belts 1995, which is referred to in the margin of the UDP. Whilst both these policies have similar objectives to those of the Framework, they are specifically inconsistent with paragraph 149(g) of the 2021 Framework, which refers to the redevelopment of Previously Developed Land (PDL) as one of the exceptions to new buildings being inappropriate development in the Green Belt, and, in terms of the determination of this appeal, with the Framework as a whole. I accord them limited weight as a result.
25. Policy GE2 seeks to maintain and enhance areas with generally high landscape value and improve poor landscapes in priority areas. Policy GE4 calls for the scale and character of development in the Green Belt to be in keeping with the area and, wherever possible, conserve and enhance the landscape and natural environment. Policy GE5, which is regarding housing development in the Green Belt, is not consistent with the Framework in that it does not reflect paragraph 149(g) and accordingly I give it limited weight.
26. Core Strategy Policy CS71 is regarding the protection of the Green Belt but does not specifically refer to development proposals within the Green Belt, being more concerned with maintaining the Green Belt boundaries. As such, I consider that it is not relevant to the determination of this appeal. As a result of the most important Green Belt policies in the development plan being

inconsistent with the Framework, I have proceeded to determine this appeal with reference to the Framework.

27. Paragraph 147 of the 2021 Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings in the Green Belt is classified as 'inappropriate' save for those falling within the closed list of categories at paragraph 149 of the 2021 Framework. Part (g) of that paragraph, which the main parties agree is relevant to this case, relates to development involving the partial or complete redevelopment of PDL.
28. Two buildings proposed for retention and conversion for new uses do not comprise new buildings and therefore fall outside the definition of inappropriate development. However, all the housing would comprise new buildings and it therefore needs to be determined whether this represents inappropriate development. Section (g) of paragraph 149 gives one of the exceptions as being '*limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings)*'. These must be shown to not have a greater impact on the openness of the Green Belt than the existing development; or to not cause substantial harm to the openness of the Green Belt where the development would reuse PDL and contribute to meeting an identified affordable housing need.
29. The reuse of PDL is encouraged by government policy, and paragraph 119 of the 2021 Framework seeks to prioritise development on previously developed sites. The Glossary to the Framework defines PDL as: '*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*' It states that exclusions from this definition include: '*land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*'
30. Regarding the above definition, the Council has accepted that all the existing buildings on the site are properly classified as PDL and none are considered to have 'blended in' with the landscape. At my site visit I observed that the 'blended in' areas include those that are internal to the site, some of which are sandwiched between areas that are accepted by the Council to be PDL and others between the buildings and the surrounding woodland. Also, some of the 'blended in' land lies in the extreme north west of the site and is sandwiched between the existing substantial industrial buildings within the appeal site and the Yorkshire Water treatment works.
31. In terms of 'curtilage', to determine what is included requires a specific assessment based on a number of factors<sup>1</sup>. The appellant has not provided any assessment of curtilage or addressed the relevant test or factors. Therefore, I have not based my judgement of the extent of PDL on whether the undeveloped land falls within the curtilage of specific buildings.
32. Despite some of the proposed new buildings being shown to be on land that I consider has 'blended in' with the surrounding landscape, the buildings would mainly be located on land currently occupied by buildings or hardstanding that

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<sup>1</sup> R (oao Hampshire CC v Blackbushe Airport Ltd [2021 EWCA Civ 389 ])

has not 'blended in'. On this basis, I am satisfied that the proposal comprises development involving the partial or complete redevelopment of PDL, as referred to in paragraph 149(g) of the 2021 Framework.

33. In looking at the second limb of paragraph 149(g), I have first examined whether the appeal proposals would '*contribute to meeting an identified affordable housing need*'. In this respect, the Council's 2013 Strategic Housing Market Assessment (SHMA) identified the need for 725 affordable housing units per annum in Sheffield. A calculation of the shortfall in affordable homes assessed it as 902 units per annum, assuming that the backlog of housing need would be cleared over a 5-year period. Based on these figures, I am satisfied that there is an identified affordable housing need within Sheffield.
34. The appeal proposal would comply with the development plan policy to provide 10% of the gross internal floor area as affordable housing, which would result in about 30 new affordable homes being provided. The Framework does not quantify the contribution to affordable housing, and I have not been referred to any guidance that specifies a level of contribution. As such, I find that the proposal would meet this part of the second limb to paragraph 149(g) in that it would contribute to meeting an identified affordable housing need.
35. To determine whether this exception to new buildings being inappropriate development in the Green Belt is met, it is necessary to examine the impact on openness.

#### *Openness*

36. In determining the nature and extent of impacts on Green Belt openness it is necessary to assess both spatial and visual impacts. The appellant contends that such impacts should be assessed against a 'fall-back' position. I consider the fall-back position to be one of general tranquillity with most of the buildings being vacant and unlikely to be brought back into use.
37. The spatial dimension of openness is principally informed by consideration of the extent of existing development within a site and a comparison with how this would change if a redevelopment proposal was implemented. A recent survey carried out on behalf of the appellant has identified the volume of the existing buildings. The illustrative masterplan and access and land use parameters plan gives the figures for the proposed development as a 52% reduction in the footprint of buildings from 30,332sqm to 14,506sqm; a 43% reduction in the volume of buildings from 196,297cum to 112,173cum; a 24% reduction in the area of hardstanding on the site from 86,482sqm to 65,650sqm; and a reduction in the maximum building height on the site from 15m to 12m.
38. Although there are large scale buildings on the site, some of them are open-sided and weathered, and most of the buildings are not in use. I consider that parts of the hardstanding have 'blended in' to the landscape and some parts of the existing buildings are screened from view due to the steep sides of the valley, the extent of the vegetation and the tree cover. In these circumstances, a statistical analysis of footprint and volume does not reflect the true resulting change in impact on openness due to the proposed development.
39. In visual or perceived terms, the openness of the Green Belt derives from an absence of built development. I observed at my site visits that the surrounding

- woodland and vegetation that has grown up between the existing buildings provide screening, and this would probably still be the case during the winter months. As such, long distance views of the site from Acorns Hill, Loxley Road, Myers Lane, on the ridge to the north of Loxley, and public footpaths to the south of the site are mainly of rooflines between large expanses of green vegetation. In close range views, including from Storrs Bridge Lane, the bulk of the existing buildings is noticeable through the vegetation but is partially screened, reducing its impact on the otherwise green environment.
40. With regard to the visual dimension, the impact of the proposed built form and associated tree loss would be to deliver a more permeable development than is currently on the site. This would result in an increase in visibility and give a far greater urban appearance than the existing buildings and hardstanding, much of which has merged into the surrounding woodland.
  41. Whilst the proposed development would make use of the space occupied by the existing buildings, it would also use a significant part of the former hardstanding areas that have a more rural appearance. As such, the new buildings would effectively encroach further into the surrounding countryside and would fail to maintain the integrity of the surrounding landscape character and the visual openness of the Green Belt.
  42. The proposed buildings and roads and other infrastructure that would provide a link between them would result in a continuation of built form in the valley which is not apparent in the current development and would be visually uncharacteristic and conspicuous in the wider landscape. It would be highly visible and would appear as an unacceptable visual encroachment in the surrounding countryside.
  43. In terms of the degree of activity, such as traffic generation, the Environmental Statement (ES) gives a total number of two-way external vehicle trips that would be generated by the development as 1,754 per day without the mitigation measures. I acknowledge that the appellant has committed to sustainable travel through the Design Code and Travel Plan, which include measures to encourage, through a network of linked streets and other routes, walking and cycle access connecting to existing Public Rights of Way (PROWs) and improve connectivity across the site. Also, the proposed high frequency bus service that would operate through the site would provide opportunities to minimise car use. However, the appellant has accepted that, by bringing the site back into use, there would inevitably be a greater degree of activity as a consequence. I find that this degree of activity that would be associated with the proposed predominately residential use of the site would be noticeably greater than currently exists and would fail to sustain the existing tranquillity.
  44. The appellant accepts that the former refractory use of the site is highly unlikely ever to return. However, it has suggested that, without a comprehensive redevelopment plan such as the appeal proposal, a piecemeal reuse/refurbishment of the existing buildings and external hardstanding areas for a range of industrial and commercial activity could resume across a number of buildings resulting in new activity and vehicular movement. However, I have not been given any details of such proposals, and most of the existing buildings would be unsuitable to be brought back into use without extensive refurbishment, making it unlikely on viability grounds. I therefore consider that the site would be unlikely to revert back to the historic heavy industrial



use or other potential future industrial or commercial uses to any significant degree.

45. In my opinion the appeal proposal would result in a noticeable increase in activity on the site compared to the 'fall-back' position. This would have a significant impact on openness.
46. In conclusion on this matter, I have assessed the overall impact of the proposed development on openness. In this respect, the overall volume and floorspace of the proposed dwellings and retained buildings would be significantly less than that of the existing buildings on the site. However, the plans indicate that the buildings would be spread out over the site into some of the areas that have re-vegetated and have effectively 'blended in' to the surrounding woodland. The removal of large parts of this vegetation and mature trees would open the site to make it more visible than the existing buildings in both distant and nearby views. The views of the buildings that would be spread over a greater area, together with the associated increase in activity, parking, traffic on new and widened roads, lighting and domestic gardens with their associated paraphernalia, would significantly increase the impact on openness to such an extent that it would cause substantial harm.

#### *Conclusions on Inappropriate Development*

47. I have found that the siting and arrangement of the proposed buildings, together with the resulting increase in activity, parking, lighting and paraphernalia associated with the permanent occupation of up to 300 dwellings, would cause substantial harm to the openness of the Green Belt compared to the fall-back position. I therefore conclude that the proposal would constitute inappropriate development in the Green Belt for the purposes of Section 13 of the Framework.

#### ***Purposes of the Green Belt***

48. The Framework defines five purposes served by the Green Belt. With regard to purpose (c), which is to assist in safeguarding the countryside from encroachment, the total brownfield area of the site which is occupied by buildings and hardstanding and forming the curtilage of the Works site has been calculated by the appellant as 8.548 ha.
49. The Council has provided a plan which identifies those parts of the site that it regards as having 'blended in' to the landscape, such that they no longer comprise PDL. This has been calculated as some 0.642 ha. This would amount to about 7.5% of the PDL. However, in addition to this, the residential character of the development would not safeguard the countryside from encroachment. There would be a degree of urbanisation and intensification of activity on the site which would alter its character in a way that would encroach into the countryside. I therefore find that the appeal proposal would be contrary to one of the purposes served by the Green Belt given in the Framework.

#### ***Character and Appearance***

50. The appeal site is located to the west of the Peak District National Park but outside the Park itself. I agree that the proposed development would not harm the special qualities as set out within the National Park Management Plan. There is limited direct inter-visibility between the National Park and the site,

given the arrangement of intervening tree cover, topography and built form. The appellant's Landscape and Visual Impact Assessment (LVIA) concludes that the magnitude of change upon the surrounding 'Landscape Character Areas' would be low, resulting in negligible long-term effects.

51. The surrounding area is protected under Policy GE8 of the UDP as an 'Area of High Landscape Value' where protection of the landscape is to be the overriding consideration. I accept that, under this non-statutory designation, the site itself and perceptible surroundings does not represent a 'valued landscape' within the meaning of paragraph 174(a) of the 2021 Framework. However, much of the site is mature woodland, which screens many of the large derelict buildings from views, and the Loxley River valley acts as a 'Green Corridor'. I consider that these represent important qualities that require safeguarding.
52. The site is also within the 'Green Corridor' protected under UDP Policy GE10 for its green and open character. Paragraph 130(c) of the 2021 Framework requires development to be sympathetic to local character and landscape setting and paragraph 174(b) requires it to recognise the intrinsic character and beauty of the countryside. In terms of Policy BE18, the 'Loxley Valley Area of Special Character' has never obtained Conservation Area status and has not resulted in the production of a site-specific Development Brief. Therefore, I consider that this Policy is not relevant to the determination of this appeal proposal.
53. The 'Loxley Valley Design Statement' was produced by the Loxley Valley Design Group and came into being in 1995. Under policies BE2 and GE2 in this Statement, new development should not damage important views in and into the Loxley Valley.
54. A Design and Access Statement (April 2020), Illustrative Masterplan and a set of parameter plans provide details of the design of the development proposal. The Design Code provides a set of rules and parameters together with an additional set of parameter plans supplementing the parameter plans that were submitted with the planning application. The demolition and retainment plan also identifies the buildings to be retained and includes the set of existing cottages, the bowling club and two buildings for conversion into mixed-use. Five 'Character Areas' have been set, which are Storrs Bridge Lane, Riverside Walk, Millpond Walk, Village Heart and Woodland Walk. The Illustrative Masterplan provides 15.6 ha of open space which equates to 58% of the total site area and includes various typologies of public open space. This includes urban woodland, landscaped areas of amenity green space, ecological green corridors and formal outdoor sports facilities, a village green, civic and market squares.
55. The Sheffield Green Belt and Countryside Areas – Preliminary Landscape Character Assessment' locates the appeal site within 'VA3 - Pastoral Upland River Valley LCT'. Page 59 of the assessment references 'Tree Cover', establishing that the north-east facing slope and valley bottom of the Loxley are heavily wooded with very little tree cover on the south facing valley slopes apart from shelter belts around the nurseries and along some field boundaries. The LVIA has determined that the site and the immediately surrounding landscape is of 'medium-high' value, albeit the scenic quality and condition is compromised by the disused and derelict nature of the existing land use.

56. I accept that visible buildings are a characteristic distant component of the wider scene. However, the proposal would introduce an urbanisation that would be clearly visible on a far greater scale than these buildings, even those that are present on the site. This would introduce elements on a scale that would be totally uncharacteristic in the local landscape. Although the proposal would enable the restoration, enhancement and management of landscape features, and the removal of derelict buildings, this would be insufficient to mitigate the resulting harm due to the change in the character and appearance of the area through the loss of a significant number of mature trees and the urbanising effect.
57. In terms of the loss of trees, I have considered paragraph 131 of the 2021 Framework, which emphasises the importance of trees to new development. The proposed development would result in the loss of some of the existing landscape features, including some 1.44 ha of tree cover, which represents about 6% of the overall 22.9 ha canopy extent of woodland within the red line boundary, and 18 trees associated with the proposed vehicular access on Storrs Bridge Lane. Another element of the scheme that would have the potential for further tree loss relates to the flood interception ditches. This is a substantial infrastructure requirement, and the ditches are included in the Flood Risk Assessment (FRA), produced for the appellant by BWB. They are shown as going through the woodland. A note from BWB, submitted on 26 May 2021, provides a revised location that would be incompatible with the illustrative layout and would reduce the developable area of the site.
58. The submitted Arboricultural Impact Assessment determined that no trees which were the subject of a Tree Preservation Order (TPO) would be lost because of the proposal. However, since that Assessment, a TPO has been made on 6 October 2020 that includes the trees along Storrs Bridge Lane and trees around the Mill Pond as being protected. I am satisfied that these are important trees that contribute to the character of the area and so require protection. I have insufficient evidence to show that these trees would not be lost as a result of the proposed widening of Storrs Bridge Lane and flood prevention works at the Mill Pond.
59. There is no definition of what amounts to 'significant' or 'unacceptable' loss' in association with UDP Policy GE15 (Trees and Woodland). The appellant has stated that some tree loss would be necessary to remove the derelict buildings, structures and areas of hardstanding associated with the appeal site. Balanced against this, the proposal would include new planting and the creation of a Woodland Management Plan, which would be secured by a condition, that would help protect, manage and enhance the woodland that makes up a large area of the site. However, given the extent and location of the proposed tree removal, I do not consider that the harm arising from the loss of trees in association with the development would be fully mitigated by the tree planting and woodland management, particularly in the short term when the replacement trees would be less mature and would provide a reduced level of screening.
60. In addition to the above harm, the introduction of street lighting across the site and across the access road and bridge would have a notable effect on the generally rural character, particularly at night time when there is currently very limited lighting that is mainly for security. This would be compounded by the domestic lighting, and headlights across the site. The site would change from

largely abandoned buildings in a woodland setting to a well-used, domestic residential, suburban area.

61. The proposal would be harmful to the special character of the Loxley Valley. This change in character would be clearly perceived from PRoWs through and alongside the site, as well as further away from the site. The Woodland Management Plan would provide some benefits to the woodland but would not apply to the north of the river corridor, which is also an important area. It should also be considered against the proposed use of the woodland for recreation and play spaces, which would increase the level of activity within it and change its rural and tranquil nature.
62. I have found that the proposal would introduce new areas of open space and manage the woodland, as well as introduce new tree planting. However, this would be insufficient to compensate for the resulting change in the character and appearance of the area from a quiet rural setting with mainly large vacant buildings that are partially screened by mature woodland to a suburban domestic setting that would visibly increase activity and lighting and result in greater noise in the area both during the night and day.
63. I therefore conclude on this main issue that the proposal would have an adverse effect on the character and appearance of the site and the surrounding area. It would fail to accord with UDP Policy GE8, as it would not adequately protect an 'Area of High Landscape Value'; UDP Policy GE10, as it would detract from the green and open character of the River Loxley Green Corridor; and UDP Policy GE15, as it would result in a significant loss of mature trees. In addition, the proposal would fail to accord with the 'Loxley Valley Design Statement', and in particular policies BE2 and GE2.

### ***Ecology and Biodiversity***

64. The Council has argued that the information that it has reviewed is insufficient to reach a reasoned conclusion on the significant effects of the development on the environment, and South Yorkshire Bat Group (SYBG) has also expressed concern about the inadequacies of the surveys and evidence regarding the effect on bats. There are Schedule 1 birds shown to be present on site, as well as a considerable bat presence using the site and river for roosting and commuting. Other concerns have been raised by the Council in relation to badgers, reptiles, invertebrates and otters. Given that the proposal is in outline form, with all details except access to be determined at reserved matters stage, it is difficult to fully determine its impact on the identified species.
65. The original survey in 2014 that has been used to form a baseline for assessment is out of date. The subsequent updates in 2018 and 2020 were not comprehensive, and experts at the Inquiry have indicated that they were undertaken at the wrong time of year to understand the presence of breeding or over-wintering birds and did not address inadequacies in the baseline. The appellant has accepted that the buildings were not included in the surveys, due to health and safety reasons, and there would also be the loss of mature trees, both of these with the potential of being used for bat roosts and/or nesting birds. In addition, the impact of the proposed interception ditches has not been assessed. It appears to me that an inadequate data search was undertaken, and I am concerned that the combined surveys did not follow CIEEM Guidelines.

66. The Council has identified the Loxley River corridor, the woodland, and the Mill Pond as being three features of particular importance in terms of biodiversity and ecology. These combine to produce a habitat and species rich environment of high sensitivity. The ES recognises this in that it creates what is described in policy as a 'blue green corridor'. This 'blue green corridor' has suffered very little disturbance since the industrial buildings on the site ceased to be in operation, and it provides connectivity through and beyond the site.
67. The ES identifies the need for a buffer zone along the river of a dark corridor. However, the proposal would include new and reconstructed bridges, together with ongoing effects through noise and activity, lighting from houses, streetlights and car headlights, use by motor vehicles, and pedestrians. In addition, it appears to me that there would be foot and cycle paths through the river corridor creating additional disturbance. The Council considers that the proposed 10m wide buffer zone either side of the River Loxley would be inadequate. There would also be a significant number of mature trees that would be lost because of the development that would potentially be habitats, as well as increased recreational activity within the woodland that would cause disturbance.
68. Planning conditions would secure a Habitat Enhancement Management Plan (HEMP) and a Construction Environmental Management Plan (CEMP) to mitigate the likely effects of the development. However, I am not convinced that there is sufficient robust information, based on up-to-date survey and baseline data, to decide on how effective the proposed measures to mitigate any harm to species and the environment would be, given that the proposal is in outline form. This is confirmed by the need for planning conditions requiring a Strategic Site-Wide Ecological Mitigation Strategy to be approved and to be used as a basis for a detailed Ecological Mitigation Compensation and Enhancement Strategy. Amongst the provisions that this would include would be updated specific species survey results and mitigation measure for protected species.
69. The Environment Agency (EA) has advised that the Water Framework Directive assessment can take place pursuant to a condition to ensure that the mitigation is adequate in relation to water quality. The Council has indicated that, in usual circumstances, it would request that the assessment is carried out and agreed prior to the determination. The proposed planning condition would require the approval of a Water Framework Directive compliance assessment that identifies any impacts from the development and provides adequate mitigation, enhancement and a future management plan. It may require the removal of Old Wheel Weir or measures such as a fish pass, but this has not yet been determined. This is further evidence of the inadequacies of the information provided to enable a fully informed assessment of the impact of the proposal on the ecology, and in this case aquatic ecology.
70. I am not satisfied that the proposed biodiversity net gain would address my concerns given above. It is a separate assessment and the Metric is only concerned with habitats, not species. The joint position of the Council and SYBG is that overall, there is harm to the biodiversity interests on the site. Furthermore, at the Inquiry the appellant indicated that there is some uncertainty about the likely percentage biodiversity net gain that could be achieved, given that the relevant Metric could be different from that used in its assessment.

71. I find on this main issue that I have been provided with insufficient information to conclude that the proposal would not result in unacceptable harm to the ecology and biodiversity of the surrounding area. As such, I conclude that the appellant has failed to demonstrate that the proposal would accord with UDP Policy GE10, with regard to increasing the value of the Green Corridor for wildlife; UDP Policy GE11, with regard to respecting and promoting nature conservation; and UDP Policy GE17, in relation to protecting and enhancing the River Loxley for the benefit of wildlife.

### **Accessibility**

72. Most of the proposed dwellings would be sited at the bottom of a relatively steep sided river valley with limited accessibility. The 2021 Framework in paragraph 105 seeks to place significant development in sustainable locations which limit the need to travel and offer a genuine choice of transport modes, with the objectives of reducing congestion and emissions and improving air quality and public health.
73. The provision of on-site services would be secured for a limited period by a Section 106 planning obligation. This would generally consist of a retail unit and a community hub. The future of these services, and in particular the retail unit, would be uncertain. The South Yorkshire Residential Design Guide, 2011, at N1.1 indicates that within a larger built-up area with overlapping catchments, a minimal centre is supported by a minimum of between 800 and 1,200 dwellings, whereas the proposal would be for up to 300 dwellings. Nothing has been provided to show that the proposed retail use would be viable, even though the appellant has submitted a letter from 'the Green Shop' which indicates an interest in running the shop but with no accompanying business plan, and it would be unreasonable to enforce an unviable use. The bowling green and public open space would make a limited contribution to on-site services, and access to all other services would require travel off-site.
74. Regarding access to off-site services by walking and cycling, the distances and steep accesses would discourage residents of the development from making such trips. Furthermore, most of the routes that would be available would be unlit for a significant part of their length. Distances to certain local amenities have been agreed as being between 1,200m and 1,900m from the centre of the site. These amenities would be limited to two pubs, a local play area, a garden centre and Loxley primary school. All other key services are more than 2km from the site.
75. The Institution of Highways and Transportation (IHT) Guidelines for 'Providing for Journeys on Foot', 2000, indicates that acceptable walking distances depend on various factors, including time savings, journey purpose and general deterrents to walking. In Table 3.2, it gives suggested acceptable walking distances to services outside town centres of 800m and a preferred maximum of 1,200m. The Manual for Streets in paragraph 4.4.1 promotes 'Walkable Neighbourhoods', which it typically characterises as having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. Whilst it does not give this as an upper limit, stating that walking offers the greatest potential to replace short car trips, particularly those under 2km, I would consider that this is dependent upon those factors given in the IHT Guidelines.

76. The nearest school is Loxley primary school, which is a minimum of about 1.9km from the centre of the site, depending upon which route is taken. All other schools, including Bradfield Dungworth primary school and the secondary school at Bradfield, are more than 2km away, which would be along routes that are not conducive to walking children to school. The Council has claimed that the nearest schools are at or near to capacity and, even though CIL contributions could be used to provide additional space at local schools, there is no certainty as to which schools would benefit. As such, distances for children to travel to school would be likely to be well beyond a realistic walking or cycling distance.
77. Although the appellant has suggested that 2km is commonly used as a maximum appropriate walking distance which does not need to be a barrier to undertake a daily commute to school, I am concerned that the topography, degree of lighting, and relatively high speed of the traffic would be deterrents. It would be more attractive and quicker to drive to the facilities, including the schools. The appellant has also suggested that there is a school service to Bradfield. However, I have not been provided with details of whether or how this would be used to access the proposed development in the future.
78. In relation to public transport, the nearest bus stop is about 770m from the centre of the site via Storrs Bridge Lane and it would be further to reach it if Rowell Lane were used. The proposal would improve Storrs Bridge Lane, by providing a 1.8m wide footway and lighting, and the track to Rowell Lane, which would also be lit. However, the distance and steepness of Storrs Bridge Lane and the distance along Rowell Lane, together with the speed of traffic on that part of Loxley Road would make it unattractive, especially for children and the elderly.
79. The IHT Guidelines for 'Planning for Public Transport in New Development', 1999, recommends in paragraph 6.20 maximum walking distances to bus stops of 400m, and a WYG report entitled 'How far do people walk' has published survey results that identify a mean walking distance to a bus stop of 580m outside London and an 85th percentile of 810m. Whilst the appellant has proposed to improve the existing bus stops on Loxley Road, I observed at the site visit that they are sited on a relatively narrow footway with limited natural surveillance on a stretch of road that has no street lighting and a 60mph speed limit. As such, they would be unattractive to residents of the proposed development, particularly as the bus service to these stops consists of Nos 61 and 62, which is an hourly loop service that links rural villages to Hillsborough and Stannington and takes a relatively long time.
80. The proposed provision of an enhanced bus service through the development would be subsidised for 5 years under a Section 106 planning obligation. The appellant has provided details of interest shown by bus operators. However, correspondence with 'First' was a long time ago and the company has indicated that it is reluctant to agree to any bus service improvements as it is unsure what services will continue to operate. The more recent letters from private operators contemplate a mini-bus shuttle between the site and Hillsborough, which would be less likely to provide access to local services, and there is no certainty as to whether there would be sufficient custom to ensure that it would continue beyond the subsidised 5-year period.

81. Turning to cycling, the appellant has indicated that it would provide a 'cycle hub' as part of the community hub, which forms part of the Section 106 planning obligations. The appellant has indicated that 3km would be an appropriate distance to cycle on a day-to-day basis and up to 8km for a commute. However, I consider that the cycle hub would be most useful to encourage cycling for recreation and leisure rather than for necessary trips, given the lack of recognised cycle routes near to the site and the relatively steep gradients of most of the routes out of the site. Based on the evidence provided and my observations at my site visit, I consider that it would be unattractive for most future occupants to use a bicycle to make necessary trips to the schools and other facilities in Stannington, Bradfield or Hillsborough.
82. Based on the above, I find that the appeal site is in a location that is remote from most necessary services and facilities and that the topography and distances from any local services would make it unlikely that future residents of the proposed development would walk or cycle to such services. Furthermore, the use of the existing bus services would be unattractive, given the relative location of the bus stops from the site, the infrequency of the services, and the time that it would take to access necessary local facilities. The mitigation that would be provided by the proposed shuttle bus and a Travel Plan would be insufficient to make the site acceptable in terms of access by means other than the car. As such, the proposal would fail to accord with paragraph 105 of the 2021 Framework, as its location is not sustainable and has not been shown to be able to be made sustainable, even making allowance for it being in a rural area.

### ***Flooding***

83. The EA Flood Maps for Planning locate the site partially within Flood Zones 2 and 3. I understand that the appeal site has an observed history of flooding from the River Loxley, a Mill Leat and Mill Pond as well as overland flows from the surrounding hillsides. The appellant's assessment has suggested that historic flooding of the site has been exasperated by blockages of key structures and that hydraulic modelling has shown that the risk to the site will increase in the future due to climate change.
84. It has not been disputed that most of the hardstanding areas adjacent to the river, which represent areas where most of the proposed dwellings would be provided, are within Flood Zone 2. Accordingly, the appellant has submitted a FRA. The EA in its consultation reply to the application raised no objection to the proposal from a flood risk point of view, subject to appropriate planning conditions. Neither did the Local Lead Flood Authority and the Council's Flood Policy Officer object. Whilst there is a potential for harm arising from flood risk, the Council has accepted that it could be fully mitigated through the imposition of appropriate planning conditions which secure compliance with the appellant's agreed FRA. I have been given no reason to doubt that this would be able to be achieved.
85. The Council has accepted that the sequential test in relation to flood risk is met and I have been given no evidence to show otherwise. Table 3: Flood Risk Vulnerability and Flood Zone 'Compatibility' sets out the circumstances where the exception test should be applied. Residential development is classed as 'more vulnerable' and as such the exception test needs to be passed.



86. The exception test in paragraph 164 of the 2021 Framework would be met if wider sustainability benefits which outweigh the flood risk could be secured. The NPPG indicates that evidence of wider sustainability benefits to the community should be provided, which in this case has been through a sustainability appraisal. If the proposal fails to score positively against the aims and objectives of the sustainability appraisal, or is not otherwise capable of demonstrating sustainability benefits, the local planning authority should consider whether the use of planning conditions and/or planning obligations could make it do so. Where this is not possible, the exception test has not been satisfied and the proposal should not be approved.
87. The appellant has provided a Sustainability Assessment which sets out key elements that the appellant considers makes the proposal sustainable. These include a regular bus service; a Travel Plan to encourage alternative means of transport; new walking and cycling routes; streets that maintain low vehicle speeds; space for parking; the provision of electric vehicle charging points; community home working, recreation and leisure facilities; 'Green and Blue' Infrastructure; dual aspect homes to provide daylight and natural ventilation; the provision of a Woodland Management Plan; a Habitat Enhancement Management Plan; landscape enhancements; and the re-development of a contaminated brownfield site. Based on this, I agree with the conclusions of the appellant's submitted Flood Risk Sequential and Exception Test, April 2020, that the wider sustainability benefits to the community outweigh the potential flood risk.
88. The measures that are proposed in the FRA include the following. To mitigate the flood risk from the River Loxley, all new buildings would have their finished floor levels raised. As the Mill Leat and Pond are elevated above the adjacent development parcels, it would not be practicable to elevate finished levels in these areas above the flood levels present in the Leat and Pond. Therefore, the 600mm freeboard to climate change flood levels would be applied to their banks. To mitigate the flood risk posed by the overland flows from the adjacent hillsides, interception ditches would be created on the up-hill side of the development parcels which would intercept surface flows before they reach the development. The FRA states that hydraulic modelling has shown that without mitigation the proposed development would displace a proportion of the floodplain into the undeveloped areas of the wider site but there would be no change to the floodplain or flood levels outside the site.
89. Taking the above into account, I find that the proposal would pass both the sequential and exception tests in the Framework. It would be a predominantly residential development, which is classified in Annex 3 of the 2021 Framework as being a more vulnerable type of development to flood risk, in an area that currently is at a medium to high risk from flooding and, as such, would require significant engineering works as mitigation. Therefore, I conclude on this main issue that the proposal would result in an increased risk from flooding, which would be capable of being appropriately mitigated to prevent that risk from being unacceptable.

### ***Other Considerations***

90. Paragraph 148 of the 2021 Framework states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly

outweighed by other considerations. The appellant has put forward a significant number of positive factors that it considers weigh in favour of the proposal.

91. One of these factors is the redevelopment of a semi derelict brownfield site. In this regard, paragraph 145 of the 2021 Framework promotes the objective of enhancing the beneficial use of Green Belt land, such as looking for opportunities to *'improve damaged and derelict land'*. Paragraph 120(d) of the 2021 Framework offers support for the redevelopment of PDL, and paragraph 120(c) directs that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs, indicating that the reuse of PDL remote from settlements should attract less than substantial weight.
92. The support given to the reuse of PDL given in the Framework is less for locations that are not sustainable and remote from settlements. Furthermore, paragraph 119 of the 2021 Framework promotes an effective use of land *'while safeguarding and improving the environment'*. As such, I have attached limited weight to this benefit and the associated benefit of addressing anti-social behaviour and vandalism on the site.
93. In terms of the remediation of contamination and pollution, the Council's Environmental Protection Officer has indicated that he has no objections to the proposal in principle and all contamination and pollution concerns could be dealt with by appropriate conditions and directives. He accepted at the Inquiry that there is contamination on the site from such things as asbestos in the buildings and hydrocarbons, which have the potential to cause pollution. However, he pointed out that the Phase 2 study confirmed that the controlled waters present on the site are not contaminated and the contaminants present within the soil samples are not leaching. Therefore, no unacceptable risk to controlled water receptors has been identified and there is no pressing need to do any remediation. He also suggested that, if there were any significant risk of pollution, the enforcement provisions of the Environmental Protection Act 1990 should provide an appropriate remedy.
94. Based on the surveys and information before me and the evidence presented at the Inquiry, I am satisfied that any potential harm arising from contamination and pollution as a legacy of the site's former use should be able to be fully addressed. Although the site contains some historic contamination, there is no identified present pollution risk through a pathway to a receptor. It would be necessary to remediate the site through any other redevelopment proposals. No viability evidence has been provided to demonstrate that a redevelopment on the site at the scale proposed would be the only way of ensuring that the contamination and pollution would be satisfactorily remediated. I therefore attach moderate weight to this benefit.
95. The benefit associated with the delivery of new homes would be significant, given the government objective to *'significantly boost'* the supply, including meeting the needs of groups with specific housing requirements. Furthermore, the evidence indicates that there is a considerable need for additional dwellings to meet demand in the City, and in particular for houses, as opposed to apartments or student cluster flats, especially in locations outside of the City Centre and the City Centre West.

96. I have found that the Council cannot demonstrate a 5-year housing land supply in accordance with the Framework and, with the 35% uplift in its housing requirement resulting from changes to the Standard Method that takes effect from 16 June 2021, it is able to demonstrate less than a 4-year supply. As such, I have attached substantial weight to the provision of up to 300 dwellings, which would include market and affordable housing, with the potential of Extra Care Housing.
97. I agree that the proposed affordable housing, which would be secured by a Section 106 planning obligation, would represent a significant benefit. However, the provision would be necessary to comply with Core Strategy Policy CS40 (Affordable Housing), which states that, in all parts of the city, new housing developments will be required to contribute towards the provision of affordable housing where practicable and financially viable.
98. As the proposal is within the Peak District Fringe Housing Market Area, the required affordable housing contribution would be 10% of the gross internal floor area. The appellant has argued that, as the Council's Housing Service has indicated the need for smaller affordable homes, this requirement could result in up to 40 homes being provided. Even so, the weight that I attach to this benefit is less than I would give if the affordable housing provision would exceed that required by development plan policies. I have therefore attached moderate weight to this benefit, having already given the provision of the proposed 300 homes substantial weight.
99. The appellant has indicated that as a benefit, the proposal could include Extra Care Housing. I accept that this would provide an opportunity to meet some of a need identified by the Council's Strategic Housing Officer as being around 185 older peoples housing units by 2034, with currently no sheltered housing or extra care provision in the local area. However, the number and type of Extra Care Housing has not been specified and nothing has been put forward to ensure that they would be provided as part of the proposal. Furthermore, should this type of housing be provided it would not increase the number of housing units overall from the 300 proposed. As such, I have given this potential benefit no additional weight above that which I have given to the provision of up to 300 new homes.
100. The appellant has suggested that there would be environmental, woodland, and open space benefits from the green and blue infrastructure that is included in the masterplan. However, I have considered these as part of my overall assessment of the impact of the development on the character and appearance of the site and surrounding area. Whilst they would be benefits of the proposal, my conclusion on this matter is that they would be insufficient to overcome the harm that the proposal would cause to the character and appearance of the area. As such, I have taken them into account in determining the weight that I have given to the harm.
101. The design of the proposal would be controlled by a planning condition that would require the proposal to be constructed to an agreed Design Code. The Design Code should be capable of reflecting a high standard of design and built form including open spaces, sustainability and place making. This should ensure that a good quality housing proposal would come forward on the site. However, this is what would be expected in the Framework, as set out in paragraphs 73c), 125, 126, 128 and 134 of the 2021 Framework and there is

nothing before me to secure an exceptional or exemplary design that would carry any significant weight. Therefore, whilst the 2021 Framework has emphasised the importance of Design Codes and the appellant has indicated that the Design Code would reflect the National Design Guide and National Model Design Code referred to in footnote 52 to paragraph 134 of the 2021 Framework, I have attached moderate weight to this benefit.

102. In terms of the appellant's claims about sustainability benefits, the submitted Sustainability Assessment provides a range of measures. These include accessibility, key sustainability features, green infrastructure, creating a community, recreation and leisure, materials, contaminated land, waste and recycling, water and flooding, air quality and environmental pollution, building design and layout and energy and carbon emissions. They would be appropriately covered by planning conditions.
103. I have taken account of most of these measures under other matters that I have addressed, such as my assessment of accessibility, and the effects on character and appearance, contamination, pollution, and flooding. I give moderate weight to the benefits from the additional recreation and leisure facilities that would be provided, and moderate weight to the benefits from the provision of electric transport facilities and measures regarding energy and carbon emissions, given that they are partly to mitigate the impact of the development. I have given no weight to the appellant's proposal to use the River Loxley to generate hydro-electric power, as there is nothing before me to show that this would be feasible and would not result in unacceptable harm to the ecology and/or the appearance of the area.
104. Through the Section 106 Agreement, the appellant is committing to an investment of £750,000 over 5 years to underpin an enhanced frequency bus service which would run directly through the site. The appellant has provided recent correspondence with Northern Travel and Rivelin Travel, in that they express confidence about the longevity of the service. Even allowing for this service to be capable of continuing beyond the 5-year period, it is indicated as being a shuttle bus between the appeal site and Hillsborough that would offer very little benefit to the surrounding communities. As such, I have given this limited weight as a benefit.
105. Regarding archaeology and heritage, an Archaeological Assessment was submitted as part of the Environmental Impact Assessment (EIA) which was reviewed by the South Yorkshire Archaeological Service (SYAS). The SYAS confirmed in its consultation reply that it raised no objections to the proposal, subject to the imposition of planning conditions. A Community Heritage Engagement Statement, which the appellant has commissioned, explores the industrial heritage of the site and the potential for enhancement as a result of increasing the visibility and bringing into beneficial use the retained 19th century buildings and improvement of the water management systems. It proposes measures to retain and preserve parts of the heritage, as well as a museum.
106. Planning conditions would protect the heritage and archaeology of the site. This would include a scheme to commemorate the industrial heritage in accordance with the appellant's Heritage Statement and Archaeological Assessment, which would develop the proposals set out in the Community Heritage Statement. Therefore, I am satisfied that this should satisfactorily

address and appropriately mitigate any potential harm to archaeology and heritage matters. The Council has attached little weight to the heritage significance of the site. Based on this, and there being no details of the type and scale of any museum, together with the need to mitigate harm because of the development, I have given this benefit limited weight.

107. In terms of biodiversity net gain, the appellant has assessed that it would be capable of achieving an overall biodiversity net gain of 4.9% above the baseline value of the site prior to any site clearance activity, using the DEFRA 2.0 Metric or equivalent. However, at the Inquiry it was reluctant to commit to any specific net gain value on the grounds of uncertainty in achieving this score under a different Metric. Whilst it did indicate that it was willing to accept a planning condition that specifies a minimum 5% biodiversity net gain, this may not be achievable on the site and would therefore require a biodiversity offset or other off-site measures to be adopted. As such, I find this proposed benefit to carry limited weight, given that the Council has pursued a 10% requirement to be in line with the Environment Bill, albeit that it is not yet in force.
108. The proposal would provide economic benefits, including jobs created during the construction period and the resultant expenditure in terms of additional GVA to the local economy. Also, I accept that, following completion of the development, additional expenditure arising from the new households could benefit local businesses and help sustain jobs. The appellant has committed to enter into an Employment and Development Plan, as requested in the consultation response from the Council's Economic Development Department.
109. The appellant has suggested that new permanent employment would be created at the on-site local convenience shop, a care home, which could be up to 60 staff, and in the community hub building, as well as associated with the woodland management activities. However, most of this employment is uncertain, particularly as it would be difficult to retain the shop if it were to prove not economically viable and there is nothing to secure a care home. I have therefore attached moderate weight to the above economic benefits to the local economy.

### ***Whether the Harm would be Clearly Outweighed***

110. In considering whether other considerations outweigh any conflict with the development plan, I have taken account of the benefits put forward by the appellant in support of the proposal. These include the provision of housing, as well as affordable housing; the removal of dereliction, redevelopment and regeneration of the site; cycle and pedestrian facilities within the site; public transport provision; public open green space and blue infrastructure; a new village common and related green spaces; flexible workspace created within the existing buildings to be converted; and a new local convenience store on site; protecting retained trees and the provision of new planting; the creation of new riverside walkways; and addressing vandalism and anti-social activity on the site.
111. I have found that the proposal would be inappropriate development in the Green Belt. This is, by definition, harmful to the Green Belt and it would result in conflict with the Green Belt purpose of assisting in safeguarding the countryside from encroachment. Consistent with paragraph 148 of the 2021 Framework, I attach substantial weight to this harm. In addition to the definitional harm caused by the proposal's inappropriateness, I have found that

the harm to openness would be substantial in magnitude. The proposal would also cause harm to the character and appearance of the site and the surrounding area. Other harm that I have found results from the site's unsustainable location that has poor accessibility by means other than the car and includes an area that is of a medium to high risk of flooding. This harm further weighs against the proposal.

112. Taking account of this harm, and the weight that I have given to the above-mentioned considerations, I find that the appellant has not put forward other considerations that are sufficient to clearly outweigh the harm. As such, the harm to the Green Belt by reason of inappropriateness and any other harm is not clearly outweighed by other considerations. Consequently, the very special circumstances necessary to justify the development do not exist.

### ***Overall Conclusions***

113. In the absence of the Council being able to demonstrate a 5-year supply of deliverable housing sites, the policies which are most important for determining the application are considered out of date, as specified in footnote 8 of the 2021 Framework. In such circumstances, paragraph 11d) of the Framework indicates that permission should be granted unless, in 11d)i, the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development.

114. The conflict that I have found with Green Belt policies in the Framework provides a clear reason for refusing the development proposed. I have found that the proposal would fail to accord with the development plan and policies in the Framework as a whole. As such, it would not represent sustainable development in accordance with the Framework. Therefore, having regard to all matters raised, I conclude that the appeal should fail.

*Martin Whitehead*  
INSPECTOR

## APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY: Sheffield City Council

Guy Williams Of Counsel, instructed by Patricia Evan, Planning & Highways Lawyer, Sheffield City Council

He called

Laura Stephens MA	Planning Officer, Sheffield City Council (Green Belt evidence and participant in Housing round table session)
Sarah Hull MSc	Principal Planning Officer, Sheffield City Council (Planning and Green Belt evidence and participant in Accessibility round table session)
Jack Foxhall DipLD CMLI	Planning Officer and Landscape Architect, Sheffield City Council (Participant in Landscape and Visual Impact round table session)
Deshpande Harshada	Design Officer, Sheffield City Council (Participant in Landscape and Visual Impact round table session)
Chris Smith BSc(Hons)	Biodiversity Officer, Sheffield City Council (Participant in Ecology and Biodiversity round table session)
Neal Pates BSc(Hons) HNCEnvHealth Dip Acoustics	Environmental Protection Officer, Sheffield City Council (Participant in Contamination round table session)

FOR THE APPELLANT: Patrick Properties Strategic Land Ltd

Christopher Katkowski Queens Counsel, instructed by Avison Young

He called

Gary Halman BSc FRICS FRTPI	Senior Director, Avison Young (Planning and Green Belt evidence and participant in Landscape and Visual Impact and Accessibility round table sessions)
Roland Bolton BSc(Hons) MRTPI	Senior Director, DLP Planning Ltd (Participant in Housing round table session)
Jonathan Berry BA(Hons) DipLA CMLI AIEMA MArborA	Partner, Tyler Grange Group Ltd (Participant in Landscape and Visual Impact round table session)
David Rudlin BA(Hons) MRP	Urban Design Principal Director of URBED (Participant in Landscape and Visual Impact round table session)

Jeremy James MSc BSc(Hons) CEnv CEcol CEnv MCIEEM	Director, Bowland Ecology (Participant in Ecology and Biodiversity round table session)
Tim Russell BEng(Hons) MIHT	Associate, Croft Transport Solutions (Participant in Accessibility round table session)
Danny Kennedy	Appellant Company (Participant in Accessibility round table session)
Martin Dyer BSc(Hons) FGS AIEMA MIEnvSc CEnv	Director and Principal, E3P Ltd (Participant in Contamination round table session)

FOR THE RULE 6 PARTY: CPRE and Friends of Loxley Valley

Alistair Mills Of Counsel, instructed by Dr Andy Tickle, CPRE

He called

Andrew Wood BA(Hons) Arch MTP	Managing Director, Stride Works Ltd (Planning and Green Belt evidence and participant in the Landscape and Visual Impact round table session)
Dr Andy Tickle BSc(Hons) PhD DIC FRSA	Head of Campaigns, CPRE Peak District and South Yorkshire (Participant in the Landscape and Visual Impact and Accessibility round table sessions)
Dr Anne Robinson BSc MB ChB DPhil MRCP	Transport Campaigner, CPRE Peak District and South Yorkshire (Participant in Accessibility round table session)

OTHER INTERESTED PARTIES

Olivia Blake	MP
Catherine MacKay	Local Resident
Mark Wragg	Local Resident
Richard Sutcliffe	Local Resident
Robin Hughes	Local Resident and representative for Hallamshire Historic Buildings
David Holmes	Local Resident
Craig Gamble Pugh	Local Resident and representative from Sheffield Climate Alliance
David Markham	Local Resident (also read Statement of Christopher Barber)
Councillor Penny Baker	Ward and Parish Councillor and Local Resident



Jack Bain	Local Resident
Rodri Morris	Local Resident
Jim Muirhead	Local Resident
Jayne Bradbury	Local Resident
Robert Bell	South Yorkshire Bat Group (Participant in Ecology and Biodiversity round table session)
Brian Armstrong	South Yorkshire Bat Group (Participant in Ecology and Biodiversity round table session)

## **DOCUMENTS SUBMITTED AFTER OPENING THE INQUIRY**

- 1 Appellant's Opening Submissions, submitted by the appellant on 13 April
- 2 Opening Submissions on behalf of Sheffield City Council, submitted by the Council on 13 April
- 3 Rule 6 Opening Submissions, submitted by the Rule 6 Party on 13 April
- 4 Update Core Documents List, submitted by the appellant on 13 April
- 5 E-mail of Statement of Christopher Barber, submitted by Christopher Barber on 13 April
- 6 E-mail of Statement of David Markham, submitted by David Markham on 13 April
- 7 E-mail of Statement of Councillor Penny Baker, submitted by Councillor Penny Baker on 13 April
- 8 E-mail of Statement of Craig Gamble Pugh, submitted by Craig Gamble Pugh on 13 April
- 9 E-mail of Statement of Olivia Blake MP, submitted by Olivia Blake MP on 13 April
- 10 Signed Landscape Statement of Common Ground, submitted by the appellant on 14 April
- 11 Table of existing and proposed areas and volumes, submitted by the appellant on 14 April
- 12 E-mail, dated 12 April from BWB Consulting regarding interceptor ditched, submitted by the appellant on 15 April
- 13 Statement of Christine King, submitted by Christine King on 15 April
- 14 Updated Appendix 6 to Sarah Hull's Proof of Evidence, submitted by the Council on 16 April
- 15 Housing and 5 Land Supply Summary Sheet, submitted by the Council on 19 April
- 16 Transport Assessment Scoping Note- August 2019, submitted by the appellant on 19 April
- 17 Contamination Statement of Common Ground, submitted by the appellant on 20 April
- 18 Journal of Planning Law Case Comment on R (on the application of Lochailort Investments Ltd) v Mendip DC, J.P.L. 2021, 5, 568-580, submitted by the Rule 6 Party on 21 April
- 19 Drawing Ref REP/20-01301-OUT/07/A: Development Impact on Protected Trees, submitted by the Council on 22 April
- 20 South Yorkshire Bat Group Draft Conditions, submitted by South Yorkshire Bat Group on 3 May

- 21 E-mail, dated 6 May 2021 from the appellant regarding Extra Care Units, submitted by the appellant on 6 May
- 22 BWB Summary Note 2: Interception Drainage, submitted by the appellant on 26 May
- 23 Planning Conditions Schedule (26/05/21), submitted by the appellant on 26 May
- 24 Hallamshire Historic Buildings Proposed planning conditions, submitted by Hallamshire Historic Buildings on 26 May
- 25 E-mail from Robin Hughes, dated 27 May 2021 regarding the Site Visit, submitted by Hallamshire Heritage Buildings on 27 May
- 26 Rule 6 party: CPRE/FoLV submission on proposed conditions, submitted by the Rule 6 Party on 28 May
- 27 Planning Conditions Schedule Final Draft, submitted by the appellant on 4 June
- 28 Draft Section 106 and Appendices, submitted by the appellant on 4 June
- 29 Hallamshire Historic Buildings Proposed planning conditions (updated), submitted by Hallamshire Historic Buildings on 7 June
- 30 Hallamshire Historic Buildings changes to planning conditions, submitted by Hallamshire Historic Buildings on 8 June
- 31 CIL Compliance Statement on Behalf of the Local Planning Authority, submitted by the Council on 8 June
- 32 South Yorkshire Bat Group Closing Submissions, submitted by South Yorkshire Bat Group on 9 June
- 33 CPRE, the countryside charity & Friends of the Loxley Valley: Rule 6 Closing Submissions, submitted by the Rule 6 Party on 9 June
- 34 Final Submissions on behalf of Sheffield City Council and 4 cases referred to in the submissions, submitted by the Council on 10 June
- 35 Appellant's Closing Submissions and 5 cases referred to in the submissions, submitted by the appellant on 10 June
- 36 Site Visit Route Consolidated Plan, submitted by the Council on 10 June
- 37 Site Visit Driving Route, submitted by the Council on 10 June
- 38 Signed Section 106 Agreement, dated 17 June 2021, received on 18 June
- 39 E-mail, dated 26 July 2021, from Richard Cannon, on behalf of the Council in response to the Planning Inspectorate e-mail, dated 21 July 2021 regarding the updated 2021 National Planning Policy Framework, received on 26 July

- 40 E-mail, dated 26 July 2021, from Stuart Kemp on behalf of CPRE Peak District & South Yorkshire and Friends of the Loxley Valley in response to the Planning Inspectorate e-mail, dated 21 July 2021 regarding the updated 2021 National Planning Policy Framework, received on 27 July
- 41 Letter, dated 27 July 2021, from Philip Grant of Avison Young on behalf of the appellant in response to the Planning Inspectorate e-mail, dated 21 July 2021 regarding the updated 2021 National Planning Policy Framework, received on 27 July
- 42 E-mail, dated 29 July 2021, from Philip Grant of Avison Young on behalf of the appellant in reply to the responses to the Planning Inspectorate e-mail, dated 21 July 2021 regarding the updated 2021 National Planning Policy Framework, received on 4 August
- 43 E-mail, dated 2 August 2021, from Richard Cannon, on behalf of the Council in reply to the appellant's response to the Planning Inspectorate e-mail, dated 21 July 2021 regarding the updated 2021 National Planning Policy Framework, received on 4 August