



---

## Appeal Decision

Inquiry Held on 12-15, 19, and 21 January 2021

Site visit made on 20 January 2021

**by O S Woodward BA(Hons.) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 March 2021**

---

### **Appeal Ref: APP/J4423/W/20/3258555 Land at Moorthorpe Way, Sheffield S20 6PD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Avant Homes against the decision of Sheffield City Council.
  - The application Ref 19/03143/FUL, dated 23 August 2019, was refused by notice dated 5 June 2020.
  - The development proposed is the erection of 72 dwellings, new access road, landscaping, public open space, playspace, and flood storage works.
- 

### **DECISION**

1. The appeal is allowed and planning permission is granted for the erection of 72 dwellings, new access road, landscaping, public open space, playspace, and flood storage works at Land at Moorthorpe Way, Sheffield S20 6PD, in accordance with the terms of the application Ref 19/03143/FUL, dated 23 August 2019, and subject to the conditions set out in Annex C to this decision.

### **PRELIMINARY MATTERS**

2. With the agreement of the main parties, I have adapted the description of development to include the proposed playspace and flood storage works.
3. Subsequent to the close of the inquiry, a consultation on draft revisions to the National Planning Policy Framework (the Framework) was released. The consultation is at an early stage. In any event, I am content that the proposed revisions have no material consequences for the determinative matters in this appeal. Accordingly, it was not necessary for me to seek the views of the parties on this.
4. After the decision made on the application and prior to the inquiry, there was a dispute over land ownership in the area of the proposed playspace. This was resolved by the appellant submitting a revised red-line boundary drawing, which was reviewed and agreed by the other main parties and substituted into the inquiry documents prior to the inquiry beginning. The appellant also produced revised drawings in support of a revised proposal, known as 'Scheme B'. This involved relatively minor changes to landscaping, layout, affordable housing location, and unit mix. Sufficient time was provided ahead of the inquiry for the main parties to engage with the revised information, and for public consultation to be held. On that basis, I am satisfied that no injustice would be caused to interested parties by my consideration of the amended

drawings and additional evidence. I have therefore accepted the drawings and it is Scheme B which formed the basis of the inquiry and this decision letter.

5. The appeal is supported by a s106 Planning Obligation. Following the related discussions at the inquiry, this required amending. I therefore agreed a short extension of time following the close of the inquiry for the parties to deal with that. The revised s106 Planning Obligation was duly received on 27 January 2021.
6. The Owlthorpe Action Group (the OAG), who had Rule 6 status at the inquiry, requested that an Environmental Impact Assessment (EIA) be carried out. The Secretary of State considered this request and issued a formal Screening Opinion on 10 December 2020 which confirmed that the proposal is not EIA development.

## **MAIN ISSUES**

7. The principle of development is not in dispute between the main parties. The site is one (Site E) of three sites (Sites C, D and E) in the Owlthorpe area which have been allocated for residential development for some time, as set out in Policy H13 of the Unitary Development Plan 1998 (the UDP), and in detail in the Housing Sites (C, D, E), Moorthorpe Way, Owlthorpe Planning and Design Brief, November 2017 (the Brief). In light of that, the main issues in this case are:
  - the effect of the proposed development on the ecology of the site and the surrounding area;
  - the effect of the proposed development on the character and appearance of the area, in particular with regard to green infrastructure and open space;
  - whether or not the proposed development makes efficient use of land;
  - whether or not the proposed affordable housing has been successfully integrated into the proposed development; and
  - whether or not the proposed development prejudices the proper planning of the area by not forming part of a comprehensive scheme for the whole of the Owlthorpe development area (Sites C, D and E).

## **PLANNING POLICY**

8. The Development Plan for the area includes the Core Strategy 2009-2026 (the CS) and the saved policies of the Sheffield Unitary Development Plan (the UDP). The saved policies direction was made in September 2007 and includes Policy H13 of the UDP. Whilst the appellant suggested that the supporting text to Policy H13 has not been saved, it is well established that the saving of listed policies has the effect in law of preserving all the supporting text as well.
9. The Brief relates directly to the appeal site, and wider area. It underwent public consultation prior to being adopted. It is agreed between the main parties that this document, whilst not part of the Development Plan, carries substantial weight. I have no reason to take a different view.
10. The Community Infrastructure Levy and Planning Obligations SPD, December 2015 (the CIL SPD), in particular Policy GAH5, and The Climate Change and

Design SPD and Practice Guide, March 2011 (the CC SPD), in particular Guideline CC1, are both relevant to the appeal and are material planning considerations. I attach moderate weight to both documents.

11. The Five-Year Housing Land Supply Monitoring Report 2020, published December 2020, demonstrates that the Council has a 5.4 year deliverable supply of housing. This is not contested by the appellant or the OAG. The Housing Delivery Test measurement for 2020, published January 2021, finds that the Council delivered 123% of housing against its target. Moreover, none of the policies most important for determining the appeal are inconsistent with the Framework. Paragraph 11d of the Framework is not therefore engaged.

## **REASONS**

### **Ecology**

12. The appeal site comprises a mixture of scrub and grassland with significant tree growth. The area along the northern border alongside the ancient wood is particularly dense with tree growth. The two areas for the proposed playspace and attenuation pond are of similar character. There is the remnant of a hedgerow bisecting part of the site to the south west. However, the form of this is intermittent at best and it has been partially subsumed by scrub. It does not currently function as a hedgerow protecting species within an arable landscape, nor does it grow in, or adjacent to, any common land, protected land, or land used for agriculture, forestry or the breeding or keeping of horses, ponies or donkeys. Therefore, the Hedgerows Regulations 1997 do not apply.
13. The original application was accompanied by a Preliminary Ecological Appraisal (March 2019), an Ecological Impact Assessment (December 2019), and Addendum (October 2019), all by BWB. Additional ecological evidence was also provided to the inquiry. In addition, the OAG submitted a Preliminary Ecological Appraisal (October 2020) and a Local Wildlife Assessment (November 2020), both by Wildscapes, and a range of data and records collected by local residents, as well as providing evidence at the inquiry.
14. The surveys and records indicate that the site provides habitat for common amphibians, birds, foraging and commuting bats, and a range of fauna including some rarer species such as orchids. Although not directly found on site, both surveys agreed that the site is likely to be used by hedgehogs and badgers. Brown hares may also use the site.
15. A key component of the position of the OAG is that the site should be treated as a Local Wildlife Site (LWS), based on its 'neutral grassland' habitat type. The OAG have put the site forward for consideration as such by the Local Wildlife Sites Partnership. The basis for this position is that the site provides the ten indicator species and five strong indicator species that are required in order for a site to be selected as a LWS. However, of the five strong indicator species identified, the southern marsh-orchid was only found in 2010 and 2011, with no presence identified in any of the more recent surveys. I acknowledge that absence of evidence is not evidence of absence, as set out in the CIEEM Advice Note on the Lifespan of Ecological Reports & Surveys, April 2019. However, this species has not been found more recently despite comprehensive research into the site by the OAG and local residents, including the Wildscapes assessment, which was specifically looking for such species as part of its brief to establish if the site was capable of being a LWS.

16. In addition, two of the other strong indicator species, namely meadowsweet and smaller cat's-tail, have only been found once, and then only by local resident records as opposed to the formal surveys. A decision on the application to become a LWS has not yet been reached and the site remains unallocated in ecology terms at the time of this decision. I have proceeded to my decision on that basis.
17. Nonetheless, irrespective of its designation, the site does clearly provide a reasonably high level of biodiversity and is of ecological value. The proposed development would result in the loss of the majority of the existing habitat and ecological value. Even the area near the ancient woodland would be heavily re-landscaped. However, the principle of development is not contested at this appeal. The site is an allocated development site. It would not be possible to develop the site for housing in accordance with the allocation without the loss of the majority of the existing habitat. The use of an alternative site is therefore not appropriate nor necessary in this instance.
18. The appeal is accompanied by an Ecological Management Plan, May 2020 (EMP), setting out high level commitments to the provision of mitigation in terms of the effect of the proposed development on hedgehogs, birds, bats, and the adjacent Owlthorpe LWS. A more detailed version of this can be required by condition in the event that the appeal was to succeed, with long-term management, maintenance and contributions towards the measures secured by the s106 Planning Obligation.
19. In terms of compensation, new tree, shrub, wildflower, and hedgerow planting is proposed. This would largely be concentrated to the northern boundary, although street trees and small pockets of planting are proposed within the centre of the site and to the western and southern boundaries. This would be managed by Sheffield Council in accordance with the detail provided in the EMP. Whilst the OAG raised concerns that this northern area cannot be both used as informal open space and as an ecological buffer, it would be possible in my view to provide an ecologically valuable space which also provides landscaped areas of amenity value for future residents. Indeed, this is precisely what the site as existing provides.
20. In further compensation, the appellant proposes off-site mitigation on nearby land to the west through grassland management, restoration or creation, to be managed for a minimum 30-year period. This would result in a net gain to biodiversity of 10%, as measured by 'biodiversity units'. This has been calculated using the Defra Metric (Beta version 2.) but used qualitatively to better allocate the mitigation to the site-specific circumstances. The details of the measures and the payment are secured through the s106 Planning Obligation. The OAG raised concerns that some of the areas marked for grassland management overlap with an area where the Council is also receiving Higher Level Stewardship payments for grassland, scrub and hedgerow management until 2023. No formal details of this were provided and I note that both the measures and the payment have been agreed with the Council. I am therefore satisfied that the compensation measures are not necessarily incompatible.
21. I do not agree with the argument put forward by the OAG that all three sites, i.e. Sites C, D and E, should be considered together for the purposes of ecology. I must assess the effect of the proposal on the appeal site itself, but in

- any event, the inherent ecological value of Sites C and D is not relevant to the proposal other than in relation to any knock-on effects of the proposal on those sites. In this regard, the effects would be limited to increased recreational pressure but this must be considered in the context that they are already highly valued and used by local residents, and are in themselves allocated development sites. The effect on these sites would therefore be acceptable.
22. The Owlthorpe LWS and Ochre Dike LWS lie directly adjacent to the appeal site to the west and north, including some areas of ancient woodland. I assess the effect of the proposal on the ancient woodland later on. There would be no direct effect from the proposal on the LWSs, but measures for protection, such as waste bins and management of recreational public access, would be required. Details of this have been set out in the EMP and can be controlled by condition.
23. Policy GE11 of the UDP seeks to protect the natural environment. Policy GE13 of the UDP specifically seeks to prevent development which would damage Areas of Natural History and finds that development affecting Local Nature Sites should, wherever possible, be sited and designed so as to protect and enhance the most important features of natural history interest. Neither of these designations are a LWS. This is because the policy pre-dates the existence of LWS and the terminology. However, the clear thrust of the policy is to protect sites of biodiversity value - the greater the biodiversity value the greater the protection. In addition, the policies are consistent with Paragraph 170 of the Framework, which protects sites of biodiversity value, and Paragraph 175, which states that significant harm to biodiversity should be avoided if possible, and if not then adequately mitigated and then compensated for. I therefore consider that Policies GE11 and GE13, and Paragraphs 170 and 175 of the Framework, apply to the proposal.
24. The proposal would result in some harm to ecology. However, this would be suitably mitigated and compensated for by a variety of on-site and off-site measures as set out above, ultimately resulting in a biodiversity net gain of 10%, which is in excess of the policy requirement merely to protect biodiversity. The proposal is therefore acceptable in these respects and complies with the relevant parts of Policies GE11 and GE13 of the UDP. It complies with Policy CS47 of the CS, which, amongst other things, seeks to protect open space of ecological value. It also complies with the relevant parts of Paragraphs 170 and 175 of the Framework.

### **Character and Appearance**

25. The appeal site is a greenfield site. It contains significant tree growth, as well as areas of scrub and grassland. It slopes relatively steeply, both upwards from north to south and from east to west. The site forms a horseshoe shape around an existing medical centre and associated car park. An existing access road provides access to the medical centre and also a small off-shot that directly abuts the site. This is an over-engineered road for the current state of the site and was installed as part of the wider vision for development on the site and wider area.
26. The site is bordered by this road and medical centre, a footpath to the east, ancient woodland to the north, and further woodland and open, green land to the east and west. The two areas of greenfield land to the east are allocated residential sites in the Brief (Sites C and D). To the south is the Woodland

Heights development. The wider area is characterised by post-war developments of this type, providing a mixture of detached, semi-detached and terraced residential properties. The development pattern on the surrounding estates is for housing to be provided across the majority of the estate, with limited greenery within the estate and instead greenery and open space provided to the borders of each estate. This is the key distinctive character of the area, along with the topography, which is rarely flat and slopes to varying degrees across the site and neighbouring land and housing estates.

27. It is proposed to erect 72 houses on the site and associated internal access roads. A mixture of terraced, semi-detached, and detached housing is proposed, with an emphasis on family-sized detached houses. The proposed development is set-back from the ancient woodland to the north, with landscaping proposed in that area. There are further small areas of landscaping proposed within the site and to the western and southern boundaries, but these are limited. Street trees are also proposed along the main spine road through the middle of the site.
28. A children's playspace, to the east, and an attenuation pond, to the north east, are also proposed. The appearance of these two areas is considered acceptable by the main parties, subject to control of the detail by condition. I have no reason to come to a different view.
29. The appeal site is identified as Site E in the Brief. The Brief requires a 15m buffer to the ancient woodland to the north. It states at G1 that the interfaces between the site and the adjacent open space and woodland must be carefully designed and provide landscape quality. G2 indicates that the landscape setting must feature significantly in the development of character, with G3 requiring that development must contribute to the success of the green infrastructure in this area.
30. There was much discussion at the inquiry regarding the precise meaning of this element of the Brief. It is clear to me that the site and its surroundings are green in character and that the Brief encourages this to be reflected in any proposals for Site E. However, it is the edges of the site which are protected for green character, as set out most clearly in G1. G2 and G3 also speak of the landscape setting and the green infrastructure in the area, but not of any necessity to bring greenery in from the boundaries and through the site.
31. Figures 19 and 20 in the Brief also confirm this. These are illustrative, but they are visualisations of the Brief's guidance on development in the area, and neither figure indicates greenery *within* the site, only to the borders. I am not convinced by the Council's position that the gaps between indicated building lines could or should be interpreted as being for areas of greenery, because in other places on the figures, such as to the border with the ancient woodland or to the south and east borders of Sites C and D, greenery is explicitly indicated.
32. In any event, beyond the guidance in the Brief, it is important to assess the proposal in the context of the character of the surrounding area. The prevailing character, and the distinctive characteristic, of the surrounding built form is for greenery to be pushed to the edges of estates. I do not see this as a negative feature because of the relatively small scale of each estate and the relatively high quality of the greenery to the edges. One of the key assets of the appeal site is the greenery and woodland areas to the north and to the west, and it is the interface with these areas which is most important.

33. In this regard, the buffer area to the northern border is fairly substantial and would be landscaped, including a number of proposed trees. The housing would front onto this border. The majority of the existing trees would be lost, but these are relatively young and a suitable replacement planting strategy is proposed. It would be more landscaped than the current, natural grouping of trees, but the curve of the roads and the proposed dwellings fronting them, together with the angles created, would provide a flowing and articulated form to this boundary, ameliorating the urban form of this border. This is a successful way of addressing this border and of utilising this natural asset to the north.
34. In contrast, proposed dwellings and their rear gardens would back on to the southern and western borders. A fairly substantial retaining wall is also proposed to part of the southern boundary. I acknowledge that this does not accord with the suggested approach in the Brief. However, backing onto a site boundary is a common feature of the surrounding estates. Given the topographical challenges, in particular developing between the fixed datum of the access road and the southern boundary in a relatively short space and across a significant level difference, this is an acceptable design solution. Importantly, the majority of the existing woodland and other greenery adjacent to the site would be retained, and the borders would remain relatively green.

#### *Trees*

35. There are a number of trees on the site. As already noted, the majority would be felled to facilitate the proposed development, although some groups to the northern buffer area would be retained but thinned. In addition, some trees would be felled to facilitate construction of the pipework relating to the attenuation pond. However, the majority of trees are relatively young and are Category C, although some Category B and A trees would also be lost. I acknowledge that the appellant's own tree survey found that some of the trees that are proposed to be felled should ideally be retained. However, much as with the assessment of ecological effects, the principle of development on the site is agreed and it would not be possible to develop the site without substantial felling of existing trees, including those within Category A and B.
36. Replacement planting is proposed in mitigation, including some street trees along the main spine road and other isolated trees throughout the site, but with the majority proposed within the buffer zone along the northern boundary. The replacement planting in this area would provide a wider diversity of tree species, better integrating into the ancient woodland to the north than the existing tree coverage.
37. The biodiversity net gain works would also provide further tree planting off-site. This would include a greater variety of tree species and the detail of these works can be controlled by condition and the s106 Planning Obligation.
38. Where trees are to be retained, an Arboricultural Method Statement (AMS) would be required to ensure that construction works would provide the required protection. This can be controlled by condition. Protection during construction can also be controlled by conditions requiring the submission of a Construction Environment Management Plan (CEMP) and an update to the EMP. The sustainable drainage system proposed, and linking pipework, can be controlled by the s106 Planning Obligation, and the CEMP and EMP by conditions. Some of the proposed dwellings near to retained trees G11a and G13d could be

affected by fallen leaves blocking guttering and drains. It was suggested that that would, in turn, lead to pressure to fell the retained treated trees. However, it would be open to future occupiers, who would be aware on purchase of the proximity of the trees, to install gutter and drain covers should they wish. Whilst it was suggested that this is a matter that could be secured by condition, such would not meet the test of necessity.

39. At the inquiry, the appellant offered to retain, at least in part, more of the trees along the northern boundary. However, I do not consider this to be necessary for the reasons set out above.
40. In December 2020, Natural England confirmed that the wooded area to the north of the site is ancient woodland. Paragraph 175(c) of the Framework confirms that development resulting in the loss or deterioration of ancient woodland and ancient or veteran trees should be refused unless there are wholly exceptional reasons.
41. Natural England has published standing advice that there should be a 15m buffer zone from ancient woodland and trees to development. It is not made clear in the advice precisely how this should be measured. The Brief expects the measurement to be from the trunks of the relevant trees. At the inquiry, the OAG maintained that this could alternatively be measured further away from the trees, such as from the fence. However the 15m buffer is measured, some development is proposed within the buffer, through a mixture of road or car parking and re-grading and other landscaping works. Importantly, to my mind, no above ground built form is proposed in that area, such as housing. The level of incursion is relatively minor, but I recognise that any incursion is contrary to the Natural England standing advice and the Brief.
42. However, it has been demonstrated that there would be no incursions into the root protection area of any ancient trees. Nor would there be any incursions within 15x the diameter of any individual tree trunk or within 5m of the tree canopy, which are two other measures set out by Natural England's standing advice. Whilst the measurement of the diameter of certain trees, and therefore the 15x protection distance, was contested by the OAG, I am satisfied that the appellant's measurement in this regard is accurate and reflects the Woodland Trust guidance on how to measure multi-stem trees, by looking at individual stem measurements rather than combined base measurements.
43. Detailed control of the construction of the development, including landscaping, would be possible through the CEMP and AMS, secured by condition. The proposal would result in changes to the drainage on the site and within the buffer zone, which could potentially affect the ancient trees. However, no convincing evidence has been provided that any change to drainage would adversely affect the ancient trees, and there would be no development for drainage purposes either within the RPA or within 15x the diameter of the trunk protected areas. The total area of soft landscaping, and therefore potential drainage area, adjacent to the ancient woodland is greater than a 15m buffer line on its own, because of the areas where the landscaping extends beyond the 15m minimum. The combination of this and the clear protection of the RPAs of the trees is sufficient to demonstrate that there is very little likelihood of there being any deterioration of the ancient woodland.

### *Overall*

44. The proposed design would not harm the character and appearance of the area and is in-keeping with the prevailing character of local estate development in terms of scale and form. The loss of trees on the site would be suitably mitigated and compensated for, and it has been demonstrated that there would be no deterioration of, or loss of, ancient trees.
45. Consequently, the proposal complies with the relevant parts of Policy CS74 of the CS which, amongst other criteria, require development to consider topography, habitats, woodlands, and townscape and landscape character. It also complies with the relevant parts of Policies H14 and H15 of the UDP which, amongst other criteria, require high quality design in housing developments and the provision of buffers to sensitive land uses, and Policy GE15 of the UDP which, amongst other criteria, requires either the retention where possible of trees and hedgerows or adequate replacement, and the protection of ancient woodlands. It complies with the Brief, for the reasons set out above. It also complies with Chapter 12 of the Framework which, amongst other criteria, requires high quality design, including considerations regarding green character.

### **Density**

46. Policy CS26 of the CS sets a density range for sites within 800m of supertram stops, such as the appeal site, of 40 - 50 dwellings per hectare (dph). However, this is with the caveat that densities outside this range can be acceptable if the proposal achieves good design, reflects the character of the area, or is necessary to protect a sensitive area. The Brief sets a target density range for the site of 30 – 40 dph, subject to considerations of the complex topography across the site.
47. There was debate as to whether the proposed density would be 28 or 30 dph, the difference depending on whether to include the northern planting area as part of the development area. Either way, the proposal sits at the lower end of, or slightly below the target density for the site set out in the Brief, and below the target density set out in Development Plan policy.
48. The topography of the site does not in itself necessitate a lower density. Indeed, the steepest part of the site is also the most dense part of the proposal. Various design solutions can be brought forward that cope with changing levels in a relatively dense form, such as the 3-storey front elevation and 2-storey rear elevation houses on the Woodland Heights development to the south. However, as set out above, I have found the overall design of the proposal to be in-keeping with the character and appearance of the site and the wider area. The proposal also needs to allow for the 15m buffer zone from the ancient woodland to the north, and for a provision of a large proportion of family housing in accordance with the requirements of the Brief and Policy CS41 of the CS, and as agreed by the Council.
49. A key component of both the Council's and the OAG's position is that an alternative scheme could be proposed, which provides both housing at a similar density to the appeal proposal and manages to include greenery through the site, or, which might engage with the borders in a more open fashion. It would also, of course, be possible to develop the site in a more dense fashion, either with the same amount of housing but in a more concentrated location and with

more open space, or simply more housing. Be that as it may, I am required to come to a view on the scheme that is before me, on its own merits.

50. For the reasons set out, I am content that the proposed density is justified in this instance, through efficient use of land and good design that reflects the character of the area, and which protects the ancient woodland to the north. There is no conflict with the relevant parts of Policy CS26 of the CS. It complies with the relevant parts of the Brief. It also complies with Paragraph 123 of the Framework which, amongst other criteria, requires that development make efficient use of land.

### **Affordable Housing**

51. The related reason for refusal was on the basis of the failure to adequately integrate the affordable housing into the proposed layout. At the inquiry, it became clear that this was only part of the Council's objection to this element of the scheme, and that it had concerns with the differentiation of the affordable housing from the market housing overall - not just in terms of layout, but also design, location, garden sizes, density, the relationship to the parking court, and the living conditions of future occupiers which, whilst being acceptable, also being lower than those to the future occupiers of the market units.
52. The proposed affordable housing would be in three short terraces surrounding a parking court, with a further short terrace and a semi-detached pair of properties elsewhere within the site. Although there would be a degree of concentration of affordable units in the area round the parking court, the other affordable homes are more generally dispersed throughout the site. The affordable properties would all meet minimum size standards and have private gardens, and it is common ground that they would provide an adequate standard of living conditions for future residents. They would be constructed of the same materials and have a similar appearance and quality from the outside as the other dwellings within the scheme. Although no terraced market units are proposed, there would be a number of smaller, relatively narrow private units on the site of similar design and size. The parking court would also provide parking for cars from some of the private dwellings.
53. Overall, whilst the affordable homes would not be identical to the market properties, they would be similar and they would be relatively well integrated into the layout, such that they would not be clearly differentiated in appearance or by other means from the market properties. The proposed affordable housing would therefore be successfully integrated into the development, and the proposal complies with the relevant parts of Policy GAH5 of the CIL SPD, which, amongst other criteria, seeks that affordable housing not be differentiated from market housing by design, quality, specification, location, timing, or access to services and amenities. It also complies with Policy CS40 of the CS, which, amongst other criteria, requires affordable housing to be provided where practicable and financially viable.

### **Comprehensive Development**

54. The related reason for refusal suggests that the proposal would be prejudicial to the proper planning of the wider area. It became clear through the submissions and evidence provided at the inquiry, that the Council's fundamental objection in this regard is not that the proposal would physically

prevent development on the other sites, i.e. Sites C and D, but that it would set a precedent, establishing principles that the Council does not agree with, such as development turning its back on adjacent woodland, and which the Council contends are contrary to the Brief. The OAG had additional concerns with the lack of public open space to be provided on Site E that might never be compensated for on Sites C and D, either because they don't come forward for development, or because they follow a similar pattern of development to Site E.

55. It is clear that the proposal would not physically prevent development on Sites C and D. As set out above, I have found that the proposal would not harm the character and appearance of the area. The amount of open space would be sufficient and the open space primarily being provided to the edges of the site is in-keeping with the character of the site and the wider area. I consider the proposal to be in general conformity with the Brief. If proposals do come forward for the other sites, they would need to take into account their respective site-specific considerations and would be assessed on their own merits, as guided by the planning policy backdrop in place at the time of any decision.
56. I am content therefore that the proposal would not prejudice the proper planning of the wider area, either directly or indirectly through the establishment of an undesirable precedent. It complies with the relevant parts of the Brief. It complies with the relevant parts of Policy CS74 of the CS which, amongst other criteria, requires high quality place-making. It also complies with Chapter 12 of the Framework which, amongst other criteria, requires high quality design.

## **OTHER MATTERS**

### **Location and Accessibility**

57. Neither the Framework nor the Development Plan provide guidance on the reasonable maximum walking distance from a site to local services and facilities. Whilst the Government's Manual for Streets references a reasonable distance as being 800m, this is not an upper limit. The appellant provided evidence through a study by White Young Green (WYG), based on a National Travel Survey, that for planning purposes the average walking distance people are willing to take should be 1,150m to a shop and 1,010m to a railway station (which I take to be the equivalent of a tram stop).
58. The nearest tram stop is less than 800m from the site, which is therefore well located for the supertram. The appeal site is located further from services and retail provision, with the nearest area being the Hackenthorpe Local Centre. However, this is still within the acceptable walking distance as set out by WYG, at c.900m from the site, albeit slightly further than the 800m referred to in Manual for Streets. I am mindful, however, that the site is an allocated development site for housing. Although Policy S7 of the UDP allows for retail to be provided on the site, there is no requirement for such, whilst it explicitly allows for residential development within this allocated area. The Brief does not promote retail on the site. The lack of retail provision is not contested by the Council.

59. Funding is secured through the s106 Planning Obligation, to upgrade the nearest tram stop. This would enhance public transport facilities for people in the area, as well as for the future occupiers of the proposed development.
60. Overall, I consider the appeal site to be in an acceptable location in terms of access to local services and public transport, and it complies with the relevant parts of Policy CS51 of the CS which, amongst other criteria, requires development to promote alternative transport choices to the car. It also complies with Paragraphs 91 and 92 of the Framework in these regards which, amongst other criteria, require development to be accessible to shops.

### **Climate Change**

61. It is proposed to provide 20% of the proposed houses with on-plot electric vehicle charging points, and a further 30% of the proposed houses with passive provision, i.e. with the connections to allow for future charging points to be provided. Moreover, 25% of the proposed dwellings would be provided with photovoltaic panels. The proposed building fabric standards are set out in an Energy Report. These factors combined would result in a 20% carbon reduction from the baseline figure. All of these factors can be controlled by condition. Guideline CC1 of the CC SPD acknowledges that green roofs are only required where compatible with the design and are otherwise viable. In this instance, green roofs may not be compatible with the proposed house designs and in any case a biodiversity net gain has been demonstrated by other means, as assessed above.
62. Therefore, subject to conditions, the proposal complies with the relevant parts of Policies CS63, CS64 and CS65 of the CS which, amongst other criteria, require development to be designed to increase energy efficiency and reduce energy consumption. It also complies with Paragraph 150 of the Framework which, amongst other criteria, requires development to help reduce greenhouse gas emissions.

### **Neighbour Objections**

63. A number of objections have been received from neighbours and other parties, including the local MP, Mr Clive Betts, and Councillor Johnson. The objections are wide ranging in scope, although the biggest body of concern is in relation to the loss of the existing site and ecological concerns, which are covered above.
64. Other concerns relate to the loss of the existing greenfield site for development, the effect on local infrastructure such as the tram network, schools, and healthcare, the health and wellbeing of local residents, traffic and congestion, car parking at the tram stop, air quality, lack of public consultation, disruption during construction, disturbance from the playspace to nearby housing, highway safety particularly from the right turn onto Moorthorpe Gate over the tram tracks, concerns about the appellant's history of making mistakes in the construction of previous developments, over-provision of car parking on the site, and concerns with surface water drainage and flooding.
65. I have taken all of these factors into consideration. Most are not in dispute between the main parties, or I have assessed them above. The s106 Planning Obligation provides suitable mitigation for the effect of the development on local infrastructure, including contributions towards the Donetsk Way tram

stop, and footpaths. No evidence has been provided of there being concerns with the capacity of local schools or healthcare by the Council. The effect of the proposal on traffic and congestion is also not contested by the Council and the appellant has provided a transport assessment which has assessed the effect of the increased traffic that would be generated by the proposal on relevant junctions, and has found that they would all remain within capacity. I am mindful in this regard that no objection is raised by the local highway authority.

66. Disruption during construction would be controlled by a CEMP, to be secured by condition. Control of the quality of the development would be maintained by the requirement to develop in accordance with the drawings, and also by several conditions requiring the approval of the Council in relation to the detail of the design and other factors. A Flood Risk Assessment and Drainage Strategy has been submitted by the appellant, confirming that the site is in Flood Zone 1 (low risk) and is not at risk of fluvial or other flooding, and that the proposed sustainable drainage system would adequately control surface water drainage, including effects downstream. An Air Quality Assessment has been submitted, confirming that the development would not have a significant effect on air quality during construction, and that road traffic emissions from future residents could be suitably mitigated, through the Travel Plan to be secured by condition. I also note that electric charging points are proposed to 20% of the houses with a further 30% of houses to be provided with passive provision, which would help to reduce future effects on air quality.

## **CONDITIONS**

67. A list of suggested planning conditions was discussed at the inquiry. In coming to a view on these, I have taken account of Paragraph 55 of the Framework and advice in the Planning Practice Guidance. In particular, I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. Pursuant to the related discussion, I have revised the suggested wording as appropriate to ensure that the conditions are precise, focused, comprehensible and enforceable. The appellants have confirmed acceptance in writing of those pre-commencement conditions that have been imposed.
68. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty.
69. The Construction Environmental Management Plan and Environment Management Plan conditions are necessary to control the effect of construction in the interests of amenity and highway safety.
70. An archaeological investigation condition is necessary to ensure that works appropriately protect and record archaeology on the site.
71. The Arboricultural Method Statement is necessary to ensure that the trees both on-site and off-site are protected as required by the proposal.
72. The materials condition and the materials element of the water storage pond condition are required to protect the character and appearance of the area.
73. The hedgehog, bird and bat boxes, and lighting conditions are necessary to mitigate impact on, and disturbance to, wildlife.

74. The Travel Plan condition is necessary to control and promote sustainable transport choices. It also ensures that appropriate mitigation measures are implemented in relation to air quality.
75. The electric charging points and building fabric conditions are necessary to ensure the delivery of these elements of the proposal, which are required to ensure the proposal mitigates the effects on climate change.
76. In order to avoid pollution and to prevent increased risk from flooding, it is necessary to secure details of the design for the drainage scheme to ensure compliance with the recommendations in the appellant's Flood Risk Assessment and Drainage Strategy, including implementation of a scheme of sustainable drainage on the site, together with details for ongoing management which is essential to ensure that the scheme continues to perform as intended.
77. The sound insulation condition is necessary to ensure that the living conditions of future occupiers would be acceptable with regard to noise pollution.
78. The playspace provision condition is necessary to ensure the playspace is provided at an appropriate stage in the development and also to ensure that half of the houses to provide natural surveillance of the area are occupied prior to it becoming operational.
79. The landscape condition is necessary to ensure the relevant landscaping works are provided and thereafter maintained in the interest of visual amenity.
80. The visibility, driveway size, and driveway surfacing condition is necessary to ensure that the precise design of the driveways does not harm highway safety or the character and appearance of the area, and to protect highway safety.
81. The condition preventing obstructions on the shared drive is necessary to prevent the blocking of access for emergency vehicles.

## **PLANNING OBLIGATIONS**

82. The appellant and the Council have submitted a signed, engrossed s111 Agreement, under the Local Government Act 1972, dated 28 January 2021. This commits the appellant and the Council into entering into a 106 Planning Obligation on the date that the appellant acquires the appeal site from the Council. This is required because of the nature of the land sale agreement between the appellant and the Council.
83. The s106 Planning Obligation between Avant Homes (England) Limited and Sheffield City Council was considered in detail at the inquiry. Following this, a final version of the obligation has been produced, but this will not be engrossed until the land sale progresses. The s111 Agreement controls this.
84. I have considered the various obligations set out in the final draft s106 Obligation with regard to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in Paragraph 56 of the Framework. I have also had regard to the CIL SPD.
85. Buffer Strip Works are proposed along the northern boundary. The landscaping works are to be constructed by the appellant and then transferred to the Council for a peppercorn rent for ongoing maintenance after 18 months. These works are necessary and related to the development as they are the protected area adjacent to the ancient woodland.

86. A contribution of £16,666.00 is secured towards improvements to the Donetsk Way Tram Stop, close to the site. The proposal would increase usage of the stop, and the contribution is necessary, reasonable and related to the development.
87. A contribution of £5,000.00 is secured towards the provision of a footpath linking the west end of the proposed road to an existing Public Right of Way further to the west. This would help connectivity between the site and the surrounding green and open spaces and is necessary, reasonable and related to the development.
88. A contribution of £14,000.00 is secured towards the provision of litter bins, dog waste bins, signs and fencing. This is in mitigation of increased recreational pressure on the adjacent Owlthorpe LWS and is necessary, reasonable and related to the development.
89. A contribution of £230,400.00 is secured towards off-site biodiversity, as set out in the Landscape and Ecological Management Plan (LEMP). The payment is to be split 50/50 prior to first occupation and prior to occupation of 50 dwellings. The figure has been calculated to achieve a biodiversity net gain of 10%. The LEMP is required to be prepared by the Council. It will provide aims, objectives, maintenance details, and management responsibilities in relation to the biodiversity net gain works, helping to control their provision and ongoing maintenance. This is necessary, reasonable and related to the development.
90. On-site public open spaces are to be provided in small pockets as identified on drawing Ref n1276 148 prior to occupation of more than 75% of the proposed dwellings. These areas are to be constructed by the appellant and managed by the Council after an initial 18-month period. The provision of some on-site open space in a timely manner, and securing its ongoing maintenance, is beneficial to the character and appearance of the development and is required to meet the needs of future occupiers.
91. Details of the playspace are required. In addition, the Council is to prepare a maintenance scheme for that playspace and the surrounding Owlthorpe Park. This is necessary to secure high quality nearby play and open space to the proposed development to meet the needs of future occupiers.
92. The obligation secures the provision of 15 shared ownership affordable homes on the site and ensures that no more than 20 market units can be occupied until five affordable units have been substantially completed, or 40 market units until ten affordable units have been substantially completed, or 55 market units until all affordable units have been substantially completed. These are a beneficial aspect of the proposed development and securing their provision, in a timely manner in the construction programme, is necessary, reasonable and related to the development.
93. A contribution of £21,485.00 is secured towards the provision of street lighting along two footpaths running from and adjacent to the site and going north towards the tram stop and other open land. This will make these routes safer and more attractive for future occupiers, encouraging use of the tram and nearby open space. This is necessary, reasonable and related to the development.

94. The obligation requires details of the sustainable drainage system, linking pipework, and associated planting and implementation, with the appellant maintaining the planting for the first 18 months, followed by the Council. This is necessary to ensure the provision of the required attenuation works and it cannot be easily secured by condition because it includes works outside of the red-line boundary. A sustainable drainage system adoption fee of £6,500.00 is secured towards the costs associated with adoption of the attenuation works. A further maintenance contribution of £10,000.00 is also secured in relation to maintenance of the attenuation works. This is an integral part of the proposal and is necessary, reasonable and related to the development.
95. In the interest of visual amenity and ecology, a contribution of £22,935.91 is secured towards the provision of tree planting on land adjoining the site. This is required in order to compensate for the loss of trees within the appeal site. The calculation has been made using the Helliwell method that assesses the value of the trees to be lost compared to the contribution required to adequately replace them. The land is owned and managed by the Council, and maintenance responsibilities is to be set out in the LEMP. It is necessary, reasonable and related to the development.

### **OVERALL PLANNING BALANCE**

96. The creation of 72 dwellings would help the Council to meet its housing land supply. It would bring temporary economic benefits during the construction process, and longer-term economic benefits from the boost to local services from future occupiers. The proposed affordable housing would exceed minimum policy standards. The commitment to a 10% biodiversity net gain is in excess of policy requirements. I place significant positive weight on these factors.
97. The provision of a children's playspace would benefit not only the future occupants of the development but also existing residents and potentially, if they are developed, future occupants of Sites C and D. The attenuation pond and sustainable drainage system works not only mitigate the effects of the development but also contribute toward the potential future development of Sites C and D. The contributions secured towards tram stop improvements and the off-site biodiversity net gain works on adjacent publicly accessible areas of open land, would not only mitigate the proposal but also provide wider benefits to the local community. The commitment to 20% of the proposed houses with on-plot electric vehicle charging points, and a further 30% of the proposed houses with passive provision, is in excess of policy requirements. The proposal would be in-keeping with the character and appearance of the site and the wider area. I place moderate weight on these factors.
98. Weighing against the proposal is loss of biodiversity and trees. However, this would be appropriately mitigated and compensated for. I therefore place limited weight on this.

99. I have found no conflict with the relevant development plan policies and thus there is no conflict with the development plan as a whole. I find no conflict either with the policies of the Framework when taken as a whole. For the reasons set out above, I therefore conclude that the appeal should succeed.

*O S Woodward*

INSPECTOR

## **ANNEX A: APPEARANCES**

### **FOR THE APPELLANT:**

Richard Sagar and Josh Kitson, both of Counsel. They called:

Mark Topping	Arcus Consulting
Richard Walshaw	Nineteen 47
Andrew Baker	Baker Consultants
Matthew Addison	BWB Consulting
Roland Bolton	DLP Consultants

### **FOR THE LOCAL PLANNING AUTHORITY:**

Guy Williams, of Counsel. He called:

Sarah Hull	Principal Planning Officer – Sheffield City Council
Laura Stevens	Planning Officer – Sheffield City Council

### **FOR THE OWLTHORPE ACTION GROUP (RULE 6 PARTY):**

Dr Nicola Rivers	Wild Sheffield
Andrew Wood	Stride Works

### **INTERESTED PERSONS:**

Clive Betts MP	MP for Sheffield South East
Cllr Douglas Johnson	Green Party Ward Cllr, City Ward
Phil Jackson	Local resident
Howard Smith	Local resident
Michael Meredith	Local resident
Dr Andy Tickle	Campaign to Protect Rural England
Professor Ian Rotherham	Sheffield Hallam University
Patrick Harrison	Local resident
Peter Brown	Local resident

## **ANNEX B: DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY**

- DOC 1 Statement to the inquiry – CPRE South Yorkshire, dated 12 January 2021
- DOC 2 CIEEM Advice Note 'On the lifespan of ecological reports & surveys', dated April 2019
- DOC 3 OAG Note on use of CIEEM Guidance, dated 13 January 2021
- DOC 4 Biodiversity net gain: A practical guide - extract
- DOC 5 Presentation and attachments from Mr Meredith
- DOC 6 Letter from Mr Clive Betts MP, dated 13 January 2021
- DOC 7 Site Visit Locations Plan Ref n1276 159
- DOC 8 Statement of Common Ground, dated 22 January 2021
- DOC 9 Procedure for securing planning obligations by means of agreement under section 111 of Local Government Act 1972

## **ANNEX C: SCHEDULE OF PLANNING CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: Site Location Plan Rev D; n1276\_009-01A; 008-01; 010B; 201-01A; 202-01A; 106-01; 107-01; 108-01; 51371\_050\_BWB\_TPP\_8b; SD 12-022; 12-024; 12-025; 3573/1 Rev G; 3573/4 Rev E; 3573/5; 3573/6; P2741-01-03 Rev A; P2741-01-02 Rev G; P2741-06-01 Rev G; P2741-06-02 Rev F; P2741-06-03 Rev H; P2741-09-07 Rev A; P2741-09-08 Rev A; P2741-10-01 Rev A; P2741-10-02 Rev A; Gabion Basket Photograph; ETN/001 Rev A; ETN/002 Rev C; HTN/001 Rev A; HTN/002 Rev C; STN/001 Rev A; STN/009 Rev A; PTN/001 Rev B; PTN/002 Rev C; LBY/001 Rev A; LBY/002 Rev C; NBY/001 Rev D; Napsbury - Det - Plot 7-8, 23 and 57-58 Ref NBY/002 Rev D; Napsbury - Det - Plots 3 and 47-48 Ref NBY/002 Rev D; SBY/001 Rev B; SBY/002 Rev C; RBY/001 Rev A; RBY/002 Rev C; CHM001 Rev A; CHM/002 Rev C; DBY/001 Rev B; DBY/012 Rev A; FBY/001 Rev B; FBY/009 Rev A; KTN/001 Rev B; KTN/009 Rev C; HEL/001 Rev A; NIT/001 Rev A; WEY/001 Rev A.

### **Pre-commencement conditions**

- 3) No development shall commence, including vegetation clearance, soil stripping, earth moving or site preparation, until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction period for the development. The CEMP shall include:
  - i. site management arrangements including on-site parking and turning provision for site operatives, visitors and construction vehicles;
  - ii. the times of construction activities on the site;
  - iii. measures to control the emission of dust and dirt during construction;
  - iv. measures to control noise and vibration emanating from the site during the construction period;
  - v. measures to protect watercourses against spillage incidents and pollution; and
  - vi. details of external lighting of the site during the construction process, to be assessed against the Bats and Artificial Lighting in the U.K. 2018 guidelines.
- 4) No development shall commence, including vegetation clearance, soil stripping, earth moving or site preparation, unless and until an updated version of the Environmental Management Plan Rev 3, dated May 2020, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved document.
- 5) No development shall commence, including vegetation clearance, soil stripping, earth moving or site preparation, shall take place until a Written Scheme of Investigation (WSI) has been submitted to and

approved in writing by the Local Planning Authority. The WSI shall set out a strategy for archaeological investigation and shall include:

- i. The programme and method of site investigation and recording;
- ii. The requirement to seek preservation in situ of identified features of importance;
- iii. The programme for post-investigation assessment;
- iv. The provision to be made for analysis and reporting;
- v. The provision to be made for publication and dissemination of the results;
- vi. The provision to be made for deposition of the archive created;
- vii. Nomination of a competent person/persons or organisation to undertake the works; and
- viii. The timetable for completion of all site investigation and post-investigation works.

Development shall only take place in accordance with the approved WSI and the development shall not be occupied until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled.

- 6) No development shall commence, including vegetation clearance, soil stripping, earth moving or site preparation, until an Arboricultural Method Statement (AMS) has been submitted to and agreed in writing by the Local Planning Authority. The AMS shall include:
  - i. details of tree protection;
  - ii. measures in accordance with BS 5837:2012 (or its replacement);
  - iii. confirmation that the protected areas shall not be disturbed, compacted or used for any type of storage or fire, nor shall the retained trees, shrubs or hedge be damaged in any way;
  - iv. details of the tree pruning work set out in paragraph 3.24 of the Ecological Management Plan, associated with tree groups G7a-d, G7f, G8a, G8d-e and G9a;
  - v. confirmation that the regrading and construction works to take place in the buffer zone to the ancient woodland shall be carried out in strict accordance with the relevant details and working methods as specified in the Ecological Management Plan Rev 3 dated May 2020; and
  - vi. details of the construction methodology for any services to be located in the buffer zone to the ancient woodland or within any tree protection zone.

Development shall take place in accordance with the approved AMS and the Local Planning Authority shall be notified in writing when the protection measures are in place.

### **Specific stage conditions**

- 7) Before the relevant part of the development commences, full details of the proposed external materials including the design and materials of the

retaining walls and gabion walls shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

- 8) Prior to occupation of any of the dwellings, a scheme for incorporating the following ecological mitigation measures, including a timescale for their implementation shall be submitted to and approved in writing by the Local Planning Authority:
- i. The provision of hedgehog highways;
  - ii. A minimum of 6x habitat integrated bat boxes;
  - iii. A minimum of 4x integrated house sparrow boxes;
  - iv. A minimum of 4x integrated starling boxes;
  - v. A minimum of 4x integrated swift/house martin boxes;
  - vi. A minimum of 6x open-fronted bird boxes, attached to retained trees//bushes at the perimeters; and
  - vii. A minimum of 6x hole-entrance bird boxes, attached to retained trees/bushes at the perimeters.

Development shall be carried out in accordance with the approved scheme and timescale, and the measures secured shall be retained thereafter.

- 9) Prior to the installation of any street lighting along the two footpaths running from and adjacent to the site and going north towards the tram stop and other open land, details of the proposed lighting must have been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall be accompanied by a report assessing the proposed lighting against the Bats and Artificial Lighting in the U.K. 2018 guidelines. Development shall be carried out in accordance with the approved scheme.
- 10) No part of the development hereby permitted shall be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include, but is not confined to:
- i. Clear objectives and modal split targets;
  - ii. A timetable for implementation (which shall include the provision of discounted public transport tickets to be provided to new residents) with arrangements to review and report back on progress being achieved to the Local Planning Authority;
  - iii. Provision for the results and findings to be independently verified/validated to the satisfaction of the Local Planning Authority;
  - iv. Provisions to ensure that the verified/validated results will be used to further define targets and inform actions proposed to achieve the approved objectives and modal split targets; and
  - v. The air quality mitigation measures as set out in table 6.3 of the Air Quality Assessment.

The Travel Plan shall be implemented as approved.

- 11) Prior to the occupation of any dwelling, details of a scheme to provide 20% of the dwellings hereby permitted with on-plot electric vehicle

charging points and a further 30% of the dwellings with infrastructure to facilitate on-plot electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. No dwelling identified in the approved scheme shall be occupied unless and until the relevant provision has been provided in accordance with the approved details. The measures secured pursuant to this condition shall be retained thereafter.

- 12) No dwelling shall be occupied unless and until the water storage pond shown on plan P2741-01-02-Rev G has been constructed in accordance with details that shall have previously been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall include the design of the retaining walls including the material finishes.
- 13) No dwelling shall be occupied unless and until the renewable and low carbon energy equipment and measures to achieve the alternative fabric first approach, as set out in the Energy Report Ref 007780 dated Dec 2019 and the Eco2Solar quotation dated 24 April 2020 for that dwelling, have been installed and a report demonstrating that the agreed measures have been installed prior to the substantial completion of the last dwelling has also been submitted to and agreed in writing by the Local Planning Authority.

### **Compliance conditions**

- 14) No dwelling shall be occupied until a scheme of sound insulation based on the findings of Noise Survey Ref: LDP2266, rev: 2, dated 11 March 2019, has been installed and thereafter retained. The scheme shall:
  - i. Achieve the following noise levels: Bedrooms: LAeq (8 hour) - 30dB (2300 to 0700 hours); Living Rooms & Bedrooms: LAeq (16 hour) - 35dB (0700 to 2300 hours); Other Habitable Rooms: LAeq (16 hour) - 40dB (0700 to 2300 hours); Bedrooms: LAFmax - 45dB (2300 to 0700 hours); and
  - ii. Where the above noise criteria cannot be achieved with windows partially open, the scheme shall include a system of alternative acoustically treated ventilation to all relevant habitable rooms.
- 15) The playspace shown on drawing Ref 3573/1 Rev F shall be constructed and made available for use no later than the occupation of 75% of the overall dwellings. It must also not be brought into use prior to occupation of 50% of the houses comprising Plots 68-74.
- 16) The approved landscape works, as shown on drawings Refs 3573/2 Rev C, 3573/3 Rev C and 3573/4 Rev B, shall be implemented prior to completion of the last dwelling or within an alternative timescale to be first approved in writing by the Local Planning Authority. Thereafter, the landscaped areas shall be retained and they shall be cultivated and maintained for a period of five years from the date of implementation and any plant failures within that five year period shall be replaced unless otherwise approved in writing by the Local Planning Authority.
- 17) Prior to first occupation of any dwelling, visibility splays of at least 2 x 2 metres shall be provided for the driveway serving that dwelling. The driveway, which shall be hard surfaced (as opposed to the use of loose gravel or chippings) shall have a gradient no steeper than 1:12. The visibility splays shall thereafter be permanently retained and kept free of all obstacles to visibility over 0.6 metres in height above ground level.

Where a driveway provides both vehicular and pedestrian access to a dwelling, it shall be at least 3.2 metres in width.

- 18) At no time shall any obstruction be placed at the eastern end of the shared drive that serves plots 7-10 which would prevent access or egress by emergency vehicles from the eastern end of the shared drive.

-----**END OF SCHEDULE**-----