

PLANNING REGULATORY BOARD

**Date:- Thursday 1 July 2021 Venue:- Town Hall, The Crofts,
Moorgate Street, Rotherham.
S60 2TH**

Time:- 9.00 a.m.

Meetings of the Planning Board can all be viewed by live webcast by following this link:-
<https://rotherham.public-i.tv/core/portal/home>

AGENDA

1. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for absence (substitution)
4. Declarations of Interest (Page 5)
(A form is attached and spares will be available at the meeting)
5. Minutes of the previous meeting held on 10th June, 2021 (Pages 6 - 9)
6. Deferments/Site Visits (information attached) (Pages 10 - 11)
7. Development Proposals (Pages 12 - 88)
8. Updates
9. Date of next meeting - Thursday, 22nd July, 2021 at 9.00 a.m. at the Town Hall

Membership of the Planning Board 2021/22

Chair – Councillor Atkin
Vice-Chair – Councillor Bird
Councillors Castledine-Dack, Cowan, Elliott, Fisher, Havard, Keenan, Khan, McNeely, Miro,
Sansome, Tinsley, Wilson and Wooding.

Planning Regulatory Board 'Public Right To Speak'

REGISTERING TO SPEAK

REGISTERING TO SPEAK

The Council has a "Right to Speak" policy, under which you may speak in the Planning Board meeting about an application. If you wish to do this, it is important that you complete a tear-off slip and return it with any written comments, within 21 days of the date of the notification letter back to the Planning Department.

Your comments will be made known to the Planning Board when it considers the application and you will be written to advising of the date and time of the Planning Board meeting to exercise your right to speak

If you wish to speak in the meeting, please try to arrive at the venue **ten minutes** before the meeting starts. The reception staff will direct you to the Council Chamber.

In the Council Chamber, please give your name to the Board clerk (who will have a checklist of names derived from the agenda). The clerk will direct you to the seating reserved for people who wish to speak.

The agenda is available on line at least 5 days prior to the meeting, and a few copies will be made available at the meeting, so you can read the reported relating to the application which concerns you and see where it comes in the agenda.

The **Council Chamber** is equipped with microphones and a hearing loop.

Take time to familiarise yourself with the layout of the Chamber and the procedure of the meeting, before 'your' application is reached.

Please note that applications can sometimes be withdrawn or deferred at short notice. **The Council will do its best to notify the public in advance**, but on occasions this may not be possible.

The meeting is being filmed for live or subsequent broadcast via the Council's website and can be found at:-

<https://rotherham.public-i.tv/core/portal/home>

If anyone present or members of the public in the public galleries do not wish to have their image captured they should make themselves known to Democratic Services before the start of the meeting.

YOUR RIGHT TO SPEAK

The 'right to speak' applies equally to the applicant and to the general public.

It is not intended that professional agents representing either the applicant or objectors, should be allowed to speak, but this is at the Chairman's discretion.

You will be invited to speak by the Chairman at the correct interval.

Each speaker will be allowed three minutes to state his/her case. The applicant does not have a "right to reply" to the objector(s) comments.

Only planning related comments can be taken into consideration during the decision process.

CONDUCT OF COMMITTEE MEETINGS

Speakers should not be allowed to engage in discussion with members of the Committee during public speaking or the Committee deliberations, to avoid any risk of accusation of bias or personal interest.

All attendees are reminded of the importance to remain calm, courteous and respectful during the meeting. Please refrain from shouting out and allow people to speak. Any person causing a disruption will be asked to leave the meeting.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING BOARD

MEMBERS' DECLARATION OF INTEREST

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

Please tick (✓) which type of interest you have in the appropriate box below:-

1. Disclosable Pecuniary

☐

2. Personal

☐

Please give your reason(s) for you Declaring an Interest:-

(Please continue overleaf if necessary)

N.B. It is up to a Member to determine whether to make a Declaration. However, if you should require any assistance, please consult the Legal Adviser or Governance Adviser prior to the meeting.

Signed:-

(When you have completed this form, please hand it to the Governance Adviser.)

PLANNING BOARD
Thursday 10 June 2021

Present:- Councillor Atkin (in the Chair); Councillors Bird, Castledine-Dack, Cowen, R. Elliott (Observer), Fisher, Keenan, McNeely, Sansome, Tinsley and Wilson.

Apologies for absence:- Apologies were received from Councillors Havard, Khan, Miro and Wooding.

The webcast of the Planning Meeting can be viewed at:-
<https://rotherham.public-i.tv/core/portal/home>

1. EXCLUSION OF THE PRESS AND PUBLIC

There were no items on the agenda to warrant exclusion of the press and public.

2. MATTERS OF URGENCY

There were no matters of urgency for consideration.

3. DECLARATIONS OF INTEREST

Councillor Castledine-Dack declared a disclosable pecuniary interest in application RB2021/0048 (erection of 197 No. dwellinghouses and associated works at land off Chapel Way/Lambrell Avenue, Kiveton Park for Strata Homes) on the grounds that her employer, Alexander Stafford M.P., had submitted a objection and had requested his written statement be read out at the meeting.

Councillor Castledine-Dack left the room during consideration of this application.

4. MINUTES OF THE PREVIOUS MEETING

Resolved:- That the minutes of the previous meeting of the Planning Regulatory Board held on Thursday, 29th April, 2021, be approved as a correct record of the meeting.

5. DEFERMENTS/SITE VISITS

There were no site visits recommended.

6. DEVELOPMENT PROPOSALS

Resolved:- (1) That, on the development proposals now considered, the requisite notices be issued and be made available on the Council's website and that the time limits specified in Sections 91 and 92 of the Town and Country Planning Act 1990 apply.

In accordance with the right to speak procedure, the following attended the meeting and spoke about the applications below:-

- Demolition of existing Residential Rehabilitation Accommodation and erection of Qdos Careers Hub at land at Badsely Moor Lane Hospital Badsley Moor Lane Clifton for QCH Rotherham Ltd & NHS Property Services Ltd (RB2020/1518)

Mrs. R. Gilbert (Applicant)
Mrs. K. Kirkby (Objector)

- Erection of 197 No. dwellinghouses & associated works at land off Chapel Way/ Lambrell Avenue Kiveton Park for Strata Homes (RB2021/0048)

Ms. C. Lindley (on behalf of the Applicant)
Councillor D. Beck (Objector)

Statements were also read out on behalf of objectors who were unable to attend the meeting from:-

Alexander Stafford M.P.
Mrs. M. Oldroyd
Ms. K. Almond

- Change of Use to drinking establishment (Use Class Sui Generis) with decking area to front for seating pods at 129 Bawtry Road Wickersley for The Garrison (RB2021/0097)

Mrs. M. Godfrey (Objector)
Mr. P. Thirlwall (Objector)
Councillor E. Hoddinott (Objector)

A statement was read out on behalf of Mr. E. Vaughan (Applicant).

(2) That application RB2020/1518 be granted for the reasons adopted by Members at the meeting, subject to the relevant conditions listed in the submitted report and subject to amendment to Conditions 2 (to include the Proposed Planting Plan) and a revision to Condition 24 to now read:-

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans (as set out below)

- Location Plan 1083_QCH100
- Proposed Site Plan 1083_QCH103 Rev

- Demolition Plan 1083_QCH102
- Way Finding 1083_QCH106 Rev A
- Proposed Ground Floor Plan 1083_QCH200
- Proposed First Floor Plan 1083_QCH201
- Proposed Roof Plan 1083_QCH202 Rev A
- Proposed Elevations 1083_QCH210
- Proposed Elevations 1083_QCH211
- Proposed Elevations 1083_QCH212 Rev B
- Proposed Sections 1083_QCH220
- Landscape Masterplan 3351 101 Rev A
- Preliminary Finished Levels AMA/20780/DR/103 Rev A
- Proposed Planting Plan – 3551 201 Rev A

24

Landscaping of the site as shown on the approved plan (drawing no. Planting Plan 3551-201 Rev A) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

(3) That the Planning Board declare that it was not favourably disposed towards application RB2021/0048 and that it be refused for the following reasons:-

01

The Local Planning Authority consider that the applicant has failed to demonstrate that the proposed development would not have an adverse impact on the local highway network to the detriment of existing highway users and the local community. The contents of the Transport Assessment is not considered robust enough to demonstrate that the local network can accommodate the vehicular movements created from this development. The development therefore does not comply with the National Planning Policy Framework in that the proposal has not demonstrated that it does not have a residual cumulative impact on the road network.

02

The Local Planning Authority consider that the applicant has failed to demonstrate that the proposed development would not have an adverse impact on the biodiversity of the site and the immediate surrounding area such that the scheme could have a negative impact on local wildlife habitats. The proposal would therefore be in conflict with policies CS20 'Biodiversity and Geodiversity'; SP33 'Conserving the Natural Environment' and SP35 'Protected and Priority Species' of Rotherham's

adopted Local Plan and paragraph 170 of the National Planning Policy Framework.

(4) That application RB2021/0097 be granted for the reasons adopted by Members at the meeting and subject to the relevant conditions listed in the submitted report.

7. UPDATES

The following update informaton was provided:-

(a) Further to Minute No. 181(3) of the meeting of the Planning Board held on 29th April, 2021, following consultation between the application and the objector in relation to applicaton RB2020/1591 (Demolition of unlisted buildings and erection of 170 no. dwellinghouses and conversion of 4 no. existing buildings to create 27 No. dwellinghouses with associated landscaping and works at former Swinden Technology Centre Moorgate Road Moorgate for Keepmoat Homes) the trees bordering the boundary were to remain in situ and the designated bin store had been moved to another location.

(b) An email had been circulated from the Planning Advisory Service with regards to a free training event on the 16th June, 2021 between 5.00 p.m. and 7.00 p.m.

Members were advised if they signed up to alerts from the Planning Advisory Service they would be advised of any further training events in the future.

(c) Between the last meeting and this meeting Ian Ferguson, Transportation Adviser to the Planning Board, had retired.

The Board wished him a long and happy retirement.

Resolved:- That the update information be noted.

8. DATE OF NEXT MEETING

Resolved:- That the next meeting of the Planning Board take place on Thursday, 1st July, 2021 at 9.00 a.m. at Rotherham Town Hall.

ROTHERHAM METROPOLITAN BOROUGH COUNCIL**PLANNING BOARD****DEFERMENTS**

- Planning applications which have been reported on the Planning Board Agenda should not be deferred on request without justification.
- Justification for deferring a decision can arise from a number of matters:-
 - (a) Members may require further information which has not previously been obtained.
 - (b) Members may require further discussions between the applicant and officers over a specific issue.
 - (c) Members may require a visit to the site.
 - (d) Members may delegate to the Assistant Director of the Service the detailed wording of a reason for refusal or a planning condition.
 - (e) Members may wish to ensure that an applicant or objector is not denied the opportunity to exercise the “Right to Speak”.
- Any requests for deferments from Members must be justified in Planning terms and approved by the Board. The reason for deferring must be clearly set out by the Proposing Member and be recorded in the minutes.
- The Assistant Director of Planning, Regeneration and Transport or the applicant may also request the deferment of an application, which must be justified in planning terms and approved by the Board.

SITE VISITS

- Requests for the Planning Board to visit a site come from a variety of sources:- the applicant, objectors, the Parish Council, local Ward Councillors, Board Members or sometimes from the Assistant Director of Planning, Regeneration and Transport.
- Site visits should only be considered necessary if the impact of the proposed development is difficult to assess from the application plans and supporting information provided with the officer's written report; if the application is particularly contentious or the application has an element that cannot be adequately expressed in writing by the applicant or objector. Site visits can cause delay and additional cost to a project or development and should only be used where fully justified.
- The reasons why a site visit is called should be specified by the Board and recorded.
- Normally the visit will be programmed by Democratic Services to precede the next Board meeting (i.e. within three weeks) to minimise any delay.
- The visit will normally comprise of the Members of the Planning Board and appropriate officers. Ward Members are notified of visits within their Ward.
- All applicants and representees are notified of the date and approximate time of the visit. As far as possible Members should keep to the schedule of visits set out by Committee Services on the Board meeting agenda.
- Normally the visit will be accessed by coach. Members and officers are required to observe the site directly when making the visit, although the item will be occasioned by a short presentation by officers as an introduction on the coach before alighting. Ward Members present will be invited on the coach for this introduction.
- On site the Chair and Vice-Chair will be made known to the applicant and representees and will lead the visit allowing questions, views and discussions. The applicant and representees are free to make points on the nature and impact of the development proposal as well as factual matters in relation to the site, however, the purpose of the visit is not to promote a full debate of all the issues involved with the application. Members must conduct the visit as a group in a manner which is open, impartial and equitable and should endeavour to ensure that they hear all points made by the applicant and representees.
- At the conclusion of the visit the Chair should explain the next steps. The applicant and representees should be informed that the decision on the application will normally be made later that day at the Board meeting subject to the normal procedure and that they will be welcome to attend and exercise their "Right to Speak" as appropriate.

**REPORT TO THE PLANNING REGULATORY BOARD
TO BE HELD ON THE 1st JULY 2021**

The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

INDEX PAGE

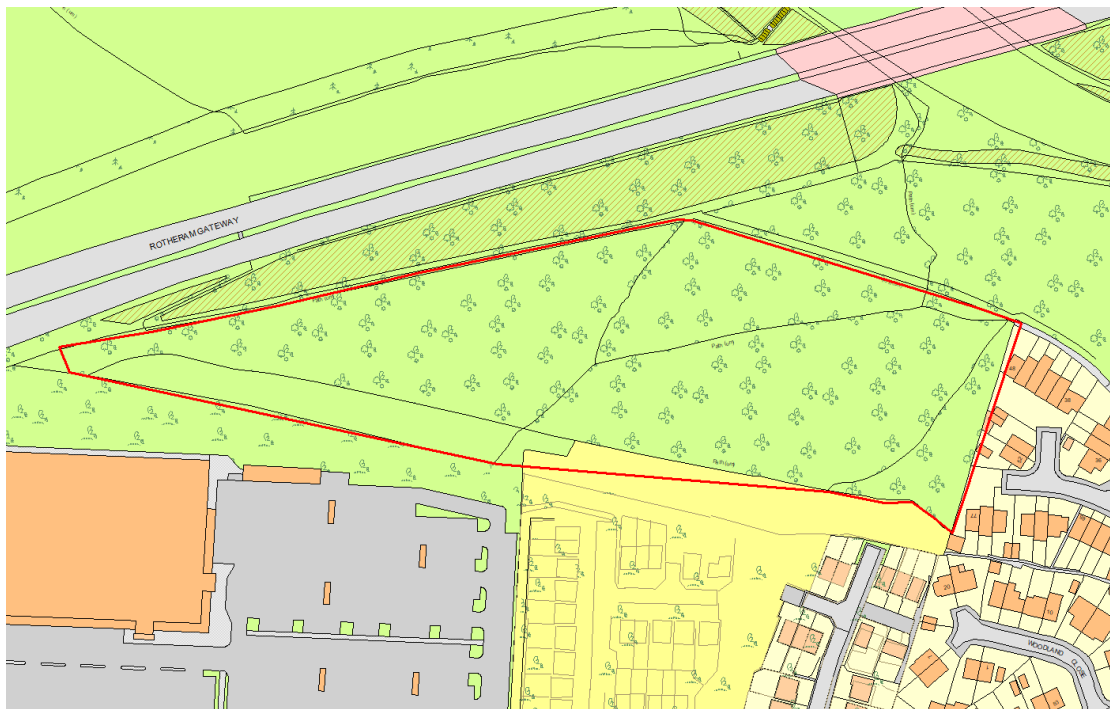
RB2021/0037 Erection of 76 No. dwellinghouses with associated access & landscaping at land West of Blue Mans Way Catcliffe for Strata Homes & Great Places Housing Group	Page 12
Appendix 1 RB2021/0037 Appeal Decision RB2014/1342	Page 60
RB2021/0598 Felling of trees protected by TPO No. 3 2016 at land west of Blue Mans Way Catcliffe for Strata Homes Limited	Page 82

**REPORT TO THE PLANNING BOARD
TO BE HELD ON THE 1ST JULY 2021**

The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

Application Number	RB2021/0037 https://rotherham.planportal.co.uk/?id=RB2021/0037
Proposal and Location	Erection of 76 No. dwellinghouses with associated access & landscaping, land West of Blue Mans Way, Catcliffe
Recommendation	<p>(A) That the Council enter into an Agreement under Section 106 of the Town and Country Planning Act 1990 for the purposes of securing the following:</p> <ul style="list-style-type: none"> • a commuted sum of £38,000 (£500 per dwelling) towards sustainable transport measures. • Establishment of a Management Company to manage and maintain all communal landscaped open space areas and woodland as shown on the Proposed Layout Plan. • £4,500 toward a Traffic Regulation Order relating to a 20 mph limit on the estate roads. <p>(B) Consequently upon the satisfactory signing of such an agreement the Council grants permission for the proposed development subject to the conditions set out in this report.</p>

This application is being presented to Planning Board due to the number of objections received.



Site Description & Location

The application site comprises a total of approximately 2.66 ha (6.56 acres) of land located off Blue Mans Way Catcliffe. The site is currently an area of informal greenspace, which contains semi mature trees. The site is bounded to the north/north-west by the Sheffield Parkway A630, and to the south is a Morrisons supermarket and a new Barratt Housing estate which is currently half complete.

To the east of the site are residential properties located off Blue Mans Way which currently form part of the western edge of Catcliffe whilst to the north east is a further area of open land, allocated for Green Space purposes.

There are two public rights of way leading from Blue Mans Way into the site, one of which (Catcliffe Public Footpath No. 2) runs between 28 and 30 Blue Mans Way and along the rear of 38-48 (even) Blue Mans Way before running along the north/north-western boundary of the application site. Catcliffe Public Footpath No. 3 runs along the rear boundary of 59-77 (odd) Blue Mans Way (though is not readily accessible) before running along the southern boundary of the application site. There are several informal paths that cross the site and link through to the Morrisons Supermarket.

The site contains many trees that are protected by TPO No. 3 2016, following a previous application to develop the site for housing.

Background

RB2014/1342 - Outline application for the erection of up to 64 dwellinghouses with details of access – REFUSED. Allowed at appeal 08/02/2017. The Inspector's decision notice is attached at Appendix 1.

RB2017/1570 - Application to fell & prune various trees protected by RMBC Tree Preservation Order No. 3 2016 - GRANTED CONDITIONALLY

RB2021/0042 - Application to undertake works to a trees protected by RMBC Tree Preservation Order No.3, 2016 – REFUSED

RB2021/0598 - Application to undertake works to trees protected by RMBC Tree Preservation Order No.3, 2016 – undetermined, also considered on this agenda.

Proposal

The application is for full planning permission for the erection of 76 affordable dwellings, with associated access and landscaping. The applicant is intending to access grant funding from Homes England to enable the 100% provision of affordable housing on the site. The proposed dwellings are for shared ownership and rent, and will comprise a range of 1, 2, 3 and 4 bedroom units.

The Site will be accessed from Blue Mans Way, to the east of the Site, between nos. 52 and 73-77 (odd). The access road runs in a linear form, westwards through the Site. Midway along this linear road, the road then curves northwards providing a circular loop which reconnects with the main access point. This access road provides access to all properties within the development with a combination of adopted streets and private drives used to give a difference in street hierarchy across the development.

The scheme comprises a mix of apartments blocks (22 in total) and detached, semi-detached and blocks of three terrace dwellings (54 total). One of the apartments will be 3 storeys in height, containing 6 x 2 bed apartments, and there will be four 2 storey apartments each with four 1 bed apartments. A number of apartments are designed in a back to back house style allowing individual doorways to the ground floor. The dwellings will be 2-storeys and 2 storeys with rooms in the roofspace, with a total of 8 x 4 bed, 28 x 3 bed and 18 x 2 bed.

A pedestrian link to the Barratts housing scheme to the south of the site shall be provided, which in turn provides a pedestrian link to the Morrisons supermarket site.

As part of the drainage strategy, an underground storage facility would be provided beneath a small area of open space close to the entrance to the site.

The development will require the removal of substantial areas of trees protected by TPO No. 3 2016 though a separate application has been submitted to fell many of these trees and is required to clearly establish the location of mining constraints on the site in the form of a 'high wall' that is a consequence of previous open cast coalmining. This in turn will establish which properties require deeper 'pile' foundations, and would not affect the overall layout proposed on the site, and is to be considered as part of a separate application (RB2021/0598), also on this agenda. The developer would not sign the S106 agreement related to the planning application until the costs involved in foundation construction is more clearly established.

The proposal would result in the realignment of part of Catcliffe Public Footpath No. 3 through the proposed housing site before joining up again at the north western corner of the site.

The following supporting documents have been submitted with the application.

The Design & Access Statement:

The following overarching design principles have been established, based upon analysis of the Site and its context. The following principles and response to the Site have guided the formulation of the latest scheme:

- Provide a modern and high-quality residential development on an existing housing allocation that will meet the need for additional homes within Catcliffe and the wider Rotherham Borough.
- Deliver a design which is appropriate to the setting of the Site and its surroundings.
- Utilise the existing opportunities and constraints of the Site to create a development which provides a pleasant environment for existing and future users.
- Integrate the new development with the existing residential uses on Blue Mans Way and the emerging residential proposals to the south of the Site.
- Off-set the development and create a green buffer between the residential properties and the Sheffield Parkway.
- Create a development which maximises natural surveillance and reduces the potential for crime and anti-social behaviour.
- Deliver attractive and safe greenspaces that are accessible to residents and the wider community.

Noise Assessment

Noise monitoring was carried out between Wednesday 18th and Thursday 19th November 2020 to determine the level of external noise affecting the proposed development and to identify and quantify existing key noise sources affecting the site and the location of the proposed development.

The Noise Report indicates that the predicted external ambient noise levels within the garden/external amenity areas vary across the site and concludes that without the provision of any mitigation measures, the ambient noise levels within the gardens and external amenity areas are predicted to be at the upper guideline value of 55 dB LAeq,T for external amenity areas, or above. As such, it is recommended that noise mitigation in the form of acoustic fencing is employed to reduce the noise levels within the gardens and external amenity areas to below 55 dB LAeq,T and in some areas to below 50 dB LAeq,T. Internal levels will be met through use of double glazing and trickle ventilation techniques, and these would be conditioned.

Transport Assessment

- The scope of assessment has been confirmed with RMBC Highways as part of a detailed scoping exercise.
- The site has a lapsed consent for 64 dwellings and thus the precedent for the development of the site for the scale / nature of that currently proposed has previously been set and the resultant traffic impact deemed acceptable by RMBC.
- Vehicular access will be provided from an extension to Blue Mans Way, via the existing Strata Homes development.
- The proposals have been demonstrated to accord with both national and local transport policy; the site is located within an existing residential area, and is located within walking or cycling distance of a number of amenities and key local employment sites.

- An analysis of contemporary accident data suggests that there are no significant accident trends that might be exacerbated by the addition of development-related traffic.
- The development proposals are likely to generate 33 two-way vehicle trips in the AM peak hour and 38 two-way trips in the PM peak hour.
- Development trips have been distributed in accordance with a gravity model, based on 2011 Census journey to work origin – destination data. The resultant uplift in traffic flows have been considered at three off-site junctions, reflecting the assessment associated with the lapsed consent and recent discussions with RMBC.
- The assessment confirms that the impact of the development traffic will not be material at any of the three junctions; as such, there is considered to be no requirement for operational assessments.
- Car parking is to be provided in line with the residential parking standards provided by RMBC; and Servicing has been considered, with swept path analysis undertaken to demonstrate the suitability of the layout in this regard.

Given the above, The Transportation Assessment considers that the proposals would not have a severe impact in traffic terms; the test set out in the NPPF, and that there are no substantive highway reasons why the proposals should not be granted planning consent.

Construction Management Mitigation Plans

Within this document various protocols have been identified in order to deal with any noise, water and air pollution that may occur during the course of construction.

Strata aims to ensure that the construction process minimally impacts neighbouring residents and the surrounding environment.

Construction hours would be Monday to Friday: 7.30am – 6pm, Saturday: 8am – 2pm, and no working on Sundays or Bank Holidays.

Construction traffic will enter the site via Blue Mans Way.

Subsequently with regards to water pollution, procedures will be put into place as discussed in Section '6.0 Ground Water Protection'. Thus, water courses will be regularly monitored by the site manager, with emergency procedures being put into place to ensure that any spillages are dealt with immediately and accordingly.

In terms of noise pollution, as discussed in Section '9.0 Noise Management' contractors are expected to use the best practical means to minimise noise on site.

They are expected to consult the useful guidance detailed in BS5228 2009: 'Noise and Vibration Control on Construction Sites' Parts.

Further to this as discussed in Section '8.0 Dust Management', construction site managers are made aware of the potential health effects of dust particulates and ensure that basic remedial action is taken to limit particulate pollution. As a result, any dust arising from activities on the site will subsequently be pre-empted and minimised via suitable and appropriate actions.

Tree Impact Assessment

As the development proposals assume the removal of seven tree groups and sections of two other tree groups growing within the site, no protection measures will be required for those trees.

It is recommended that tree planting is carried out in the areas between and within the retained groups on the edges of the development and the boundaries of the site. These retained woodlands should be thinned as part of an ongoing landscape management plan to improve the age diversity and structure of the retained trees in the long-term. Improving these groups and planting additional trees within and between them will also have the added benefit of increasing the visual screening between the site and the surrounding areas, including the busy retail park to the south and highway to the north.

Trees planted within these retained groups could be planted as whips due to the existing woodland nature of these groups and the lack of a requirement for instant impact. Proposed tree species should be native woodland trees that are in-keeping with the existing tree groups. Species include sessile Oak *Quercus petraea*, Hornbeam *Carpinus betulus*, Field Maple *Acer campestre*, Hazel *Corylus avellana* and Wild Cherry *Prunus avium*.

It is also recommended that replacement tree planting is carried out where possible within the proposed new development, for example street trees or rear gardens. The trees should be planted at minimum 12-14 cm standard girth size (Heavy Standard). Proposed tree species should be suitable for the conditions of the site and their proposed location. Recommended tree species for street trees include Field Maple *Acer campestre* "streetwise", Cherry species *Prunus* sp. (cherries), Ginkgo *Ginkgo biloba* Nanum and sweet gum *Liquidambar styraciflua*. Suitable tree species for gardens include Silver Birch *Betula pendula*, strawberry tree *Arbutus unedo*, crab apples *Malus sylvestra* and cherry species *Prunus* sp. (cherries).

It is recommended that tree planting follows 5-10-20-30 formula (i.e. no more than 5% of any one cultivar, no more than 10% of any one species, no more than 20% of any one genus, and no more than 30% of any one family.) This gives any new tree population maximum resilience against pests and diseases.

Flood Risk Assessment

The site is located in Flood Zone 1, indicating a 'low' risk of flooding from rivers and the sea. On this basis, application of the NPPF Sequential Test and Exception Test is not required.

However, there is a need to consider the topography of the site in terms of the potential for overland surface water flows from the west to flow towards properties, a potential risk of groundwater flooding which cannot be ruled out, and a residual risk of surface water flooding due to blockage or exceedance of drainage system capacity. The following precautionary mitigation measures are, therefore, recommended:-

- Development platform levels on the west of the site should be raised at least 300mm above the existing/proposed ground level in the public open space, to mitigate the residual risk of surface water runoff from this area impacting upon proposed properties.
- The finished floor levels of buildings shall be raised above general external levels by a minimum of 150mm.
- The proposed ground floors shall comprise solid concrete slabs or beam and block floors with screed construction.
- Incoming electricity supplies shall be raised above ground floor level and ground floor electric sockets shall be served by loops from upper levels.
- A sustainable surface water drainage system shall be provided to manage surface water run-off from the site itself up to the 1 in 100 year plus climate change event (see further details below)
- External levels should be designed with falls to direct overland flows away from the building entrances where possible, so that any flooding remains in less vulnerable areas such as landscaped areas, car parks, or roads, where the consequences of surface water flooding would be less significant. Where falls towards buildings are unavoidable, additional cut-off drainage and gullies/channel drains should be provided to prevent water entering buildings during extreme events.

The principles of a sustainable surface water management strategy for the proposed

development are outlined within the report. To avoid potential adverse flood risk impacts from a discharge to the small watercourse to the north-east of the site, it is proposed that surface water will be discharged to the surface water public sewer in Blue Mans Way. The proposed maximum surface water discharge rate will be 3.5l/s as required by Yorkshire Water, such that the discharge will not be expected to lead to any increase in flood risk elsewhere.

- Surface water storage will be provided within the site – in tanks and large diameter pipes – to manage surface water up to the 1 in 100 year rainfall event, including an additional 30% allowance for the projected impacts of climate change.

- Further details of the proposed surface water drainage strategy are set out in the ARP Foul and Surface Water Drainage Strategy report (reference 374-44r2) and the ARP Foul and Surface Water Drainage Strategy plan (drawing 0374/44/SK01).
- Any mitigation measures, including drainage systems, would require suitable maintenance systems to be implemented, so that the design standard is maintained over the lifetime of the development.
- The findings of this report are subject to the approval of the Regulatory Authorities.
- Subject to compliance with the above, the proposed development can satisfy the requirements of the National Planning Policy Framework and the Planning Practice Guidance in relation to flood risk.

Ecology Report

The site does not appear to be significantly constrained being dominated by uniform age, low value and dense tree planting. However, precautions need to be in place in light of the inaccessibility of the site. Supervised clearance of the site is necessary to check for any unseen constraints such as badger sets and invasive non-native plants.

The key ecological opportunity here would be to put in place measures to enhance any retained tree planting, accelerating its condition from poor to moderate according the DEFRA calculator. Measures to achieve this will be selected thinning, stockpiling of dead wood and introduction of seeded woodland ground and field layer species.

The layout responds to the ECOP and ecologists advice and the post development baseline is assessed as supporting the habitats shown in the Ecology Report which equates to enhanced retained woodland, wildflower grassland and developed mosaic

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with the Sites and Policies Document which was adopted by the Council on the 27th June 2018.

The application site was allocated for Urban Greenspace purposes in the former Unitary Development Plan (UDP), however, the adopted Sites and Policies Document removed the site from the Urban Greenspace and allocates it for Residential Use (allocated site H100). For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policies:

CS1 'Delivering Rotherham's Spatial Strategy'
CS2 'Delivering Development on Major Sites'
CS3 'Location of New Development'
CS6 'Meeting the Housing Requirement'
CS7 'Housing Mix and Affordability'
CS14 'Accessible Places and Managing Demand for Travel'
CS20 'Biodiversity and Geodiversity'
CS21 'Landscape'
CS22 'Green Space'
CS25 'Dealing with Flood Risk'
CS27 'Community Health and Safety'
CS28 'Sustainable Design'
CS33 Presumption in Favour of Sustainable Development'

Site and Policies Document policies:

SP1 'Sites Allocated for Development'
SP26 'Sustainable Transport for Development'
SP36 'Soil Resources'
SP40 'Listed Buildings'
SP54 'Contaminated and Unstable Land'
SP55 'Design Principles'
SP57 'Sustainable Construction'
SP64 'Community Facilities'

Other Material Considerations

Supplementary Planning Document No. 2 'Air Quality and Emissions'

Supplementary Planning Document No. 5 'Healthy and Equal Communities'

South Yorkshire Residential Design Guide

Manual for Streets

Council's Car Parking Standards

National Planning Practice Guidance (NPPG) (as revised)

Planning Practice Guidance on Noise

National Planning Policy Framework: The revised NPPF came into effect on February 19th (replacing the original 2012 version). It sets out the Government's planning policies for England and how these should be applied. It sits within the plan led system, stating at paragraph 2 that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise" and that it is "a material consideration in planning decisions".

The Local Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

Publicity

The application was advertised by way of press notice, site notices and neighbour notification letter. Objections have been received from the occupiers of 40 local properties as well as from Catcliffe Parish Council, the Sheffield and Rotherham Wildlife Trust, the Rotherham Local Access Forum, and Local Councillor Carter.

The objectors state that:

- The scheme will overlook neighbouring dwellings on the existing Strata estate and block light to dwellings.
- Noise and disturbance during the construction process.
- Increase in traffic along Blue Mans Way, which includes a large amount of on street parking at certain times. The road is only limited in width and traffic generated will be dangerous to existing residents.
- Sheffield Lane is a one way system and cannot accommodate the additional traffic.
- Disturbance to woodland, including loss of trees and impact upon wildlife.
- The loss of the woodland will result in the loss of a natural noise barrier to the busy Sheffield Parkway.
- Impact of drainage on the new development, including flooding of adjacent dwellings.
- Residents in the Barratt Homes housing estate were told no development would take place in the woodland.
- Increase in pollution from cars coming and going along Blue Mans Way.
- The new dwellings do not match the character of the area and existing developments.
- Additional dwellings could result in additional crime.

Catcliffe Parish Council state that:

“The Flood Risk Assessment provided by ARP refers to the Rotherham Metropolitan Borough Council Strategic Flood Risk Assessment (SFRA) Level 1, dated June 2008 and states:

“there are no recorded incidents of groundwater flooding within the borough.” This information is out of date and is not the case for the area surrounding the proposed development site. In November 2019 and January 2021 properties located on Blue Mans Way experienced issues with pluvial flooding. These properties have not experienced any issues with flooding until the Glassworks estate (currently being developed out by Barratts to the South).

To date (10th February 2021) there are no recommendations submitted by RMBC or the Environment Agency. The flood risk report advises that both agencies have been consulted with but at the time of writing a response has not been received. How can the drainage plans be efficient for the proposed site if these agencies have not provided advice?

Before a decision is made towards this application, Catcliffe Parish Council urge for planning conditions to be implemented to ensure the applicant seeks further advice from The Environment Agency and RMBC to alleviate any further flooding issues for the existing local residents.”

Sheffield and Rotherham Wildlife state that:

“We understand that due to its allocation, housing is likely to be granted on this site. However, we have had correspondence (including evidence) from immediate neighbours and a local naturalist who have highlighted a number of issues so we would like to make the following points:

1. The amenity value of the woodlands to the local residents.
2. The presence of hedgehogs.
3. The presence of a pond - this should be retained or replaced and subject to on-going management. The ecologist could not access all of the site, so it may have been missed.
4. There are plenty of birds present (recorded by the neighbours and there are presence of old nests) and the site has the potential to support Blackbird, Song Thrush, Long-tailed Tit, Blackcap, Garden Warbler, Carrion Crow, Magpie, Chaffinch, Greenfinch and Goldfinch. Therefore, there needs to be a planning condition of no woodland clearance in the bird breeding season should permission be granted.
5. Brooks Ecology have helpfully used UKHab in anticipation of a Biodiversity Net Gain assessment, but this application does not include the actual assessment. This is important given the proposed removal of woodland (even though it is young and in poor condition). We would like to see this to ensure a measurable no net loss of biodiversity in line with NPPF policies. If no net loss cannot be achieved on site, then woodland nearby or Catcliffe Flash.
6. If the development is granted, we would like to see the ecology report recommendations.
7. The woodland will be acting as a pollution buffer to the existing residents from the A630.
8. There are existing drainage issues at Catcliffe.
9. If granted, RMBC and the developer should do all they can to create a footpath to Morrisons to enable sustainable active travel.
10. If granted, will there be access to the remaining woodland strip to existing and new residents?
11. If granted, this woodland strip should remain dark with no street lighting illuminating it.”

Rotherham Local Access Forum state that:

“The applicant should be asked to improve the surfaces and widths of existing rights of way, within the application boundaries and a sum of money to improve them beyond the immediate boundary. Not much point if a surfaced path dead ends because of an invisible application boundary. The paths should avoid blind spots and be as open as possible without planting too close giving an oppressive feel. Footpath 2 is an important path as it connects Catcliffe with Europa Link and Tinsley Park beyond via an underpass under the Parkway. It is part of two recreational way marked routes created by the Ramblers' Association - the Sheffield Country Walk and Rotherham Ring Route.

Cllr Carter observes that:

“There is a strength of feeling from local residents regarding the proposed development as demonstrated by the comments submitted. My understanding is this has already received an outline planning approval in previous years. This development would involve significant traffic on residential roads, which could impact on local residents. Careful consideration and planning conditions need to be put in place so that this can be mitigated on residential streets such as Blue Mans Way, where numerous cars need to park on this road to be close to their property.

There is a strong feeling within the community regarding Sheffield Lane not being suitable for high traffic volumes, and the need to respect the one way system in place at the top of Sheffield Lane. I would welcome mitigation from the developers of this site to safeguard against the new development becoming a route for vehicles to bypass the one way system by cutting through the new development via Treeton Way and Blue Mans Way. I would favour additionally a requirement for mitigations such as ‘access only’ signs, as well as the required enforcement measures to be installed.

Additionally, residents are rightly worried about the impact this could have on the potential for flooding, a real risk in Catcliffe. Any plans need to include significant mitigation for this to ensure residents of the whole village feel safe.

Furthermore, I welcome the aspect of the proposals that future proofs the development in terms of green methods of travel, with the inclusion of electric vehicle charging points.

Finally, this development needs to also benefit the residents of Catcliffe more widely, through a requirement of a Community Infrastructure Levy (CIL) to be put in place, with the funds devolved to the parish council for their use. I note the recent Glassworks development contributed significantly (through the required CIL) to the redevelopment of the playground off Poplar Way.”

The applicant (developer and future manager of the affordable housing) and an objector have requested a right to speak at Planning Board.

Consultations

RMBC – Transportation and Highways: The Transport Assessment submitted for this site meets the appropriate standards and addresses the potential concerns that the development may generate. Operational assessment of a number of junctions had been carried out in a previous application. The traffic likely to be generated by the proposed development is unlikely to interfere with their function. Requests £4,500 toward a Traffic Regulation Order relating to a 20 mph limit on the estate roads.

RMBC – Affordable Housing: Notes the scheme is for 100% affordable housing and has no objections.

RMBC - Landscape Design: Welcomes the amended landscape scheme and recommend approval subject to relevant conditions.

RMBC – Drainage: No objections following amended details. Recommends condition for further details.

RMBC - Environmental Health (Noise): Agrees with the finding of the noise report and recommends conditions to ensure the noise levels are achieved.

RMBC - Environmental Health (Air Quality): Notes that the proposed development site is adjacent to the A630 Parkway. This route has been identified as non-compliant with the EU Air Quality Directive. A buffer zone will therefore be required between the nearest property and the A630, to ensure that future occupiers of the properties will not be exposed to elevated levels of air pollution. The plan submitted with the application indicates that there will be a distance of 50m between the edge of the A630 and the nearest proposed property on the development site, which is acceptable. The proposal includes the installation of electric vehicle charging infrastructure at each property in line with Rotherham MBC's SPD No. 2 [Air Quality and Emissions \(rotherham.gov.uk\)](https://rotherham.gov.uk).

RMBC – Environmental Health (Contamination): No objections subject to relevant conditions.

RMBC - Trees and Woodlands: Given the appeal statement from the previous planning application (RB2014-1342) the Tree Service are not in a position to object to the current application, despite the significant loss of woodland that the development will entail (49% of the existing canopy cover will be removed to facilitate the development). Acknowledge that the plan to selectively thin and replant the remaining woodland (with native species) will enhance the quality of the woodland that is to be retained.

RMBC – Ecology: Accepts the findings of the submitted Ecology Report and recommends appropriate conditions.

RMBC - Public Rights of Way: Notes that the realignment of Public footpath No.3 in Catcliffe would require a stopping up order under Town & Country

Planning to allow development to take place. They have recently consulted on the proposed stopping up, and have so far only received positive comments. In addition to the stopping up of footpath No.3 the applicant has offered to dedicate some new routes around the site. As such, no objections are raised.

RMBC – Education Service: No education payment required due to the 100% affordable housing provision, in accordance with the Council's adopted Education Contributions Policy. However, Education Service have noted that the catchment area school for this development is Catcliffe Primary, which following the opening of Waverley Junior Academy is now undersubscribed. Therefore an education contribution for primary would not in any event have been requested.

Yorkshire Water: No objections subject to relevant conditions.

Sheffield Area Geology Trust (SAGT): Has no objections to this planning application.

Highways England: No Objections

Coal Authority: No objections following amended details.

South Yorkshire Archaeology Service: No archaeological condition will be required, due to the previous open cast mining on the site.

NHS: Notes that the provision of the new NHS GP facility within the nearby Waverley development, which will be completed in winter 2022, would accommodate the additional demand generated by the proposed development. As such, they raise no objections.

Appraisal

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

Paragraph 11 of the NPPF states, in part, that: "Plans and decisions should apply a presumption in favour of sustainable development." It goes on to state that "For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

The main issues to take into consideration in the determination of the application are:

- The principle of the development
- Design, layout and scale, including the provision of open space on the site
- Highways issues
- Drainage and flood risk issues
- Ecology and biodiversity
- Landscape and tree matters
- General amenity issues – contaminated land, noise and air quality
- Impact on existing/proposed residents.
- Impact on Education/GPs
- Other issues raised by objectors
- Planning Obligations

The principle of the development

The application was allocated as Urban Greenspace within the former UDP, however the Local Plan Sites and Policies Document which was adopted on 27th June 2018 removed the site from the Greenspace allocation and re-allocates it for Residential use, due to planning permission being approved at appeal for residential development on the site (RB2014/1342). It forms Housing Site H100 and the Sites and Policies Document indicates that the total site has a capacity of approximately 64 dwellings.

Policy CS1 ‘Delivering Rotherham’s Spatial Strategy’ states, in part, that: “Most new development will take place within Rotherham’s urban area and at Principal Settlements for Growth”. Catcliffe, Treeton and Orgreave are identified as one of the Principal settlements which is to provide 170 dwellings as part of the Local Plan.

Policy CS3 ‘Location of New Development’ states, in part, that: “In allocating a site for development the Council will have regard to relevant sustainability criteria, including its (amongst other things): proximity as prospective housing land to services, facilities and employment opportunities, access to public

transport routes and the frequency of services, quality of design and its respect for heritage assets and the open countryside.”

Policy SP1 ‘Sites Allocated for Development’ identifies sites that are allocated for development and contribute to meeting requirements set out in the Core Strategy. SP1 allocates the site as H100 with an indicative capacity of 64 dwellings.

With the above policies in mind the site has now been allocated for Residential use as part of the adopted Local Plan and as such the principle of residential development is acceptable. Whilst the number of dwellings proposed on the site (76) is more than the 64 set out in the Sites and Policies Document, it is considered that the density of the proposed development is appropriate for this site. It is also noted that the reason for the increased density is due to the provision of flats on site in part as opposed to detached or semi detached dwellings. The proposed development does not take up much more land than that shown on the previous indicative layout.

In terms of the mix of housing proposed, Adopted Rotherham Core Strategy Policy CS7 ‘Housing Mix and Affordability’ states: “ (a) Proposals for new housing will be expected to deliver a mix of dwelling sizes, type and tenure taking into account an up to date Strategic Housing Market Assessment for the entire housing market area and the needs of the market, in order to meet the present and future needs of all members of the community.

(b) The Council will seek the provision of affordable housing on all housing development according to the targets set out below, subject to this being consistent with the economic viability of the development:

- i. Sites of 15 dwellings or more or developments with a gross site area of 0.5 hectares or more; 25% affordable homes on site
- ii. Sites of less than 15 dwellings or developments with a gross site area of less than 0.5 hectares; 25% affordable homes on site or a commuted sum of £10,000 per dwelling to contribute towards provision off site. Any agreed commuted sums would be subject to the provision of a payment scheme agreed between the Council and the applicant.”

In respect of the above and the housing mix proposed it is considered that the scheme would offer a wide range of property types, including 1 and 2 bedroom flats and 3 and 4 bedroom houses. Accordingly, the mix of dwellings proposed is acceptable in this instance and satisfies the above policy. In addition, the scheme proposes 100% affordable housing in the form of rental and shared ownership, clearly well above the 25% set out in Policy CS7.

The sites identified for development within the Plan are intended to promote sustainable development and assist in delivering priorities and objectives of the NPPF and the adopted Core Strategy. Through the Local Plan process the site was identified as a result of extensive consultation and a site appraisals process, including a Sustainability Appraisal, and assessed in terms of a range of social, economic and environmental factors. The Sites and

Policies Document identifies that the site is sustainable in principle for residential use.

Policy SP64 'Access to Community Facilities' states: "Residential development should have good access to a range of shops and services. On larger scale residential developments of 10 or more dwellings the majority of homes (minimum of 80%) should be within 800 metres reasonable walking distance (measured from the centre of the site, taking into account barriers such as main roads, rivers and railway lines) via safe pedestrian access of a local convenience shop and a reasonable range of other services or community facilities. This may require the provision of local services or facilities by developers where these requirements would not otherwise be met or where new development would place an unacceptable burden upon existing facilities, unless it can be demonstrated that such provision would not be viable or would threaten the viability of the overall scheme."

In relation to this site, Catcliffe Village centre is located within the 800m distance specified within the policy, which has a range of community facilities and shops. In addition the site will be within 800m of the Morrisons Supermarket and the Boundary Outlet, subject to provision of a link to the adjoining Barratt Homes site. It is therefore considered that the application site has good access to a wide range of shops and services.

Finally, the adopted SPD No. 5 - 'Healthy and Equal Communities' raises awareness of the links between equality and health and wellbeing and includes a checklist to assist development proposals in considering these issues at the planning stage.

The Checklist has been submitted and assessed by the Council's Public Health department and noted that the developer has considered all relevant aspects and put things in place to mitigate where needed.

In conclusion it is considered that the proposed residential development is acceptable in principle on this allocated site. The development is therefore considered to accord with Local Plan Policies CS1, CS3, SP1, SP11 and SP64, and the provisions of the NPPF.

The remainder of the report will focus on whether there are any other material planning considerations that would outweigh the presumption in favour of sustainable development.

Design, layout and scale, including provision of open space on the site

The NPPF advises at paragraph 124 that: "The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities".

Additionally, Policy CS28 'Sustainable Design,' indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well-designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover, it states design should take all opportunities to improve the character and quality of an area and the way it functions.

Policy SP55 "Design Principles" states: "All forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments, and positively contribute to the local character and distinctiveness of an area and the way it functions. This policy applies to all development proposals including alterations and extensions to existing buildings."

The recently published National Design Guide: "sets out a blueprint for how local authorities can achieve quality and great design, and recommends what developers need to deliver to help win the support of communities – ensuring new homes are built faster and better." Good design is set out in the guide under the following 10 characteristics: Context, Identity, Built form, Movement, Nature, Public spaces, Uses, Homes and buildings, Resources & Lifespan.

The layout, design, appearance and materials of the properties have been amended through the pre-application process as a result of discussions with the Council to improve the overall appearance of the development. The scheme proposes a majority of buff/red brick properties, with some artificial stone properties to reflect the materials used on the adjacent Blue Mans Way site, constructed some 15 years ago.

Additionally, car parking areas at the front of properties have been amended to include some areas of planting to soften the street scene within the development site. Boundary treatments have also been carefully assessed to ensure that a high quality environment is created, and the layout of the development amended to ensure a high quality street scene.

The proposed dwellings are in a modern style with a mixture of 2 & 3 bedroom dwellings and 1 & 2 bed flats. The dwelling types are appropriate for its setting and provide a good mixture. It is noted that a number of the flats are designed in an unusual back to back house style, allowing for each unit to have their own front door. This design is considered acceptable and the flats have been designed to overlook the retained Greenspace area providing good public surveillance and a pleasant setting, creating character to the estate.

One resident states the new dwellings do not match the character of the area and existing developments, though there is a variety of styles and designs in the area and the application site is a standalone site, though the applicant has proposed materials that are similar to those existing in the area.

In terms of open space provision, Core Strategy Policy CS22 'Green Space' states that: "The Council will seek to protect and improve the quality and accessibility of green spaces available to the local community and will provide clear and focused guidance to developers on the contributions expected. Rotherham's green spaces will be protected, managed, enhanced and created..."

Policy CS22 refers to detailed policies in the Sites and Policies Document that will establish a standard for green space provision where new green space is required.

Policy SP37 'New and Improvements to Existing Green Space' states that: "Residential development schemes of 36 dwellings or more shall provide 55 sq. metres of green space per dwelling on site to ensure that new homes are:

- i) within 280 metres of Green Space
- ii) ideally within 840m of a Neighbourhood Green Space (as identified in the Rotherham Green Space Strategy 2010); and
- iii) within 400m of an equipped play area."

In respect of policy SP37 the current proposal of 76 dwellings would require 4,256sqm of public open space on site. The proposed scheme includes 5,379sqm of Enhanced Retained Woodland, 4,184sqm of Species Rich Grassland and 297sqm sqm Public Amenity Grassland. As such the scheme far exceeds the requirement of SP37. In addition, the Inspector dealing with the previous appeal in relation to the outline planning permission granted in 2017 notes that: "...in view of the site's location adjacent to existing and proposed housing, securing an urban green space of high amenity and wildlife value which is both inviting and safe for local people to use is a much more appropriate aspiration than leaving the site in its current unmanaged state with no public access. Without intervention and long term management of the type that the appeal proposals would deliver that outcome is unlikely to be achieved."

In addition, policy SP37 also requires all new homes to be within 400m of an equipped play area. The scheme, which includes a link through to the Barratt site will allow a short 200m walk to Catcliffe Park, which includes a well equipped playground and sports pitches.

In terms of the Public Rights of Way across the site, the Inspector dealing with the previous appeal on the site stated: "Although there are 2 public rights of way (PROW) along the northern and southern boundaries I saw that these are impassable over most of their length. Some other paths follow 'desire lines' through the site with one of these providing a link from the Blue Man's Way estate to the edge of the Morrison's store car park. However, use of these routes is unauthorised and, as there is no right of public access for recreational use, the site cannot be said to have any current recreational value."

The proposal would result in the realignment of part of Catcliffe Public Footpath No. 3 through the proposed housing site before joining up again at the north western corner of the site. In addition, the applicant has offered to dedicate some new routes around the site. This scheme retains a similar layout to the indicative appeal proposal and will provide improved public rights of way through the site.

The proposals will introduce new and enhanced public spaces and provide access to and through them via formal footpaths that will connect to the existing Public Rights of Way network. This includes connections from the road near plot 69 and plot 34 as well as a connection through the Barratt's scheme. These connections link into the wider formal public footpath networks. As such, rather than reduce the amenity value of the site for local residents, the proposals will deliver improvements to the quality and accessibility of the site for local residents.

In terms of the impact on existing properties SP55 'Design Principles' states, in part that: "the design and layout of buildings to enable sufficient sunlight and daylight to penetrate into and between buildings, and ensure that adjoining land or properties are protected from overshadowing."

The South Yorkshire Residential Design (SYRDG) requires back gardens of houses to be appropriate to the size of the property, its orientation and likely number of inhabitants. Private gardens of one and two bedroom houses should be at least 50sqm, and for three bedroom houses / bungalows should be at least 60 square metres. The design guide goes on to state that: "Shared private space for flats must be a minimum of 50 square metres plus an additional 10 square metres per unit either as balcony space or added to shared private space." The proposed layout complies with these standards and it is noted that the proposed flats include amenity private amenity space immediately surrounding them and the occupiers will also have access to the considerable public open space on site.

The SYRDG further advises that for the purposes of privacy and avoiding an 'overbearing' relationship between buildings, the minimum back-to-back dimension (between facing habitable rooms) should be 21 metres. This also corresponds to a common minimum rear garden or amenity space of about 10 metres in depth. Additionally, for the purposes of daylighting, back-to-back distances should, as appropriate to specific circumstances, be limited by the 25 degree rule, whilst for the purposes of daylighting and avoiding an overbearing relationship, rear elevations should be provided with 45 degree clearance from any adjoining development.

The above guidance should be considered as part of any submission and in the first instance protect the amenity of existing adjacent dwellings and also provide an acceptable level of amenity for any new dwellings. Appropriate cross sections through the site should be provided to clearly show that any changes in levels do not impact on the layout and required spacing standards.

In this instance the scheme has been designed to ensure that those dwellings along the southern and eastern boundaries meet the required standards and are not overbearing to properties and gardens on the recently constructed Barratt development and the existing houses on Blue Mans Way respectively. Cross sections have been submitted to demonstrate that this is the case.

It is considered that the proposed layout is in accordance with the guidance outlined in the SYRDG, and that it would not have a significant adverse impact on the amenity of the existing residents as the proposal would not cause any significant loss of privacy or result in any overshadowing of neighbouring properties or amenity spaces. The proposal is therefore considered acceptable in accordance with the guidance contained within the SYRDG.

Highways issues

In assessing highway related matters, Policy CS14 'Accessible Places and Managing Demand for Travel,' notes in part, "that accessibility will be promoted through the proximity of people to employment, leisure, retail, health and public services by (amongst other):

- a. Locating new development in highly accessible locations such as town and district centres or on key bus corridors which are well served by a variety of modes of travel (but principally by public transport) and through supporting high density development near to public transport interchanges or near to relevant frequent public transport links.
- g. The use of Transport Assessments for appropriate sized developments, taking into account current national guidance on the thresholds for the type of development(s) proposed."

Policy SP26 'Sustainable Transport for development' states, in part, that "Development proposals will be supported where it can be demonstrated that:

- a. as a priority, the proposals make adequate arrangements for sustainable transport infrastructure; promoting sustainable and inclusive access to the proposed development by public transport, walking and cycling, including the provision of secure cycle parking, and other non-car transport and promoting the use of green infrastructure networks where appropriate;
- b. local traffic circulation, existing parking and servicing arrangements are not adversely affected;
- c. the highway network is, or can be made, suitable to cope with the traffic generated in terms of the number, type and size of vehicles involved, during construction and after occupation;
- d. schemes take into account good practice guidance published by the Council including transport assessment, travel plans and compliance with local Residential and Commercial Parking Standards to ensure there is a balance struck between access for motor vehicles and the promotion of sustainable access."

The NPPF further notes at paragraph 108: “In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

Paragraph 109 states: “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 111 goes on to note that: “All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.”

SP56 ‘Car Parking Layout’ states that layouts should be designed to reduce the visual impact of parking on the street-scene; discourage the obstruction of footways and ensure in-curtilage parking does not result in streets dominated by parking platforms to the front of properties.

Planning permission for the erection of up to 64 No. dwellings on this site (RB2014/1342) was refused on planning grounds but allowed on appeal in February 2017. A Unilateral Undertaking was proposed to secure, amongst other things, a contribution to measures to encourage and increase use of non car modes of transport and the making of a Traffic Regulation Order relating to a 20 mph limit on the estate roads. Planning conditions were also imposed by the Inspector who dealt with the previous appeal on the site, including the requirement for a pedestrian link between the site and Morrisons supermarket car park.

The Inspector took into account also representations from existing residents regarding Blue Mans Way being used as the sole means of vehicular access to/egress from the site and imposed a condition requiring a Construction Management Plan which was ... “required to minimise the effects of construction work on the operation of the highway network”. In addition, he stated: “I note the concerns raised by objectors with regard to the use of Blue Man’s Way as the access to the development. However, I have no evidence that would lead me to set aside the conclusions of the Council’s highways officer that this would provide a safe and satisfactory access subject to the traffic calming works at the site access and the proposal to introduce a 20 MPH speed limit on the estate roads.”

The current application is for the construction of 76 No. dwellings and is supported by, amongst other things, a Transport Assessment (TA), Travel

Plan (TS), Construction Management Plan and draft Heads of Terms regarding a related S106 Agreement.

The TA uses typical vehicle trips in the analysis which were agreed as part of the pre- application discussions around the scope of this TA. As peak hour congestion is the Council's main concern, only peak hour vehicle movements have been assessed. In this respect, the development proposals are anticipated to generate some 33 two-way trips in the AM peak hour and 38 two-way trips in the PM peak hour. The calculated trips are within the range expected for a development of this type.

In order to distribute the trips associated with the proposed development on the local road network, a gravity model has been prepared; this is consistent with the approach taken in the Transport Statement for the previous consent on the site and has been agreed as part of pre-application scoping discussions. The assessment reflects a worst-case scenario as it assumes that all development traffic arrives / departs via the Railway Avenue/ Sheffield Lane junction.

Although no junction modelling was required due to the low number of vehicle trips generated by the site, it was felt to be useful to include analyses that had been carried out for the previous application. A number of highway improvements have been completed since these analyses were carried out, including the reinstatement of Highfield Lane, the signalisation of the Morrisons Roundabout and other offsite improvements.

B6066 Orgreave Rd/ Sheffield Lane Priority Junction: The analysis of this junction has been carried out using industry standard modelling software. The AM and PM peak hour results show an expected increase of 29 and 22 No. vehicles respectively. The results indicate that the junction continues to operate well within capacity, even taking into account all local development and general traffic growth. This was true up to a horizon year of 2026 and will undoubtedly be the case if the trips from the current development were added in.

B6066 Poplar Way/ Sheffield Lane Priority Junction: This junction, which is currently one way out to Poplar Way, has been modelled and the AM and PM peak hour results show an expected increase of 28 and 20 No. vehicles respectively. The junction remains well within capacity and queuing is minimal.

B6066 Highfield Spring/ B6066 Poplar Way/ Morrison's Roundabout: The AM and PM peak hour results show an expected increase of 28 and 20 No. vehicles respectively. The junctions remain within theoretical capacity even with the development and growth to 2026. However the study shows that in the AM peak the eastern approach to the roundabout is at capacity in 2026. It should be borne in mind that the average trip rate has been used in modelling and that presumes an effective travel plan for the site to achieve lower numbers of trips. Overall the junction analyses show that the traffic

impact of the development will be acceptable, however this is reliant on an effective travel plan for the site.

The Transport Assessment submitted for this site meets the appropriate standards and addresses the potential concerns that the development may generate. Operational assessment of a number of junctions had been carried out in a previous application and these are included here for information. The traffic likely to be generated by the proposed development is unlikely to interfere with their function.

Drainage and flood risk issues

Policy CS24' Conserving and Enhancing the Water Environment' states:
"Proposals will be supported which:

- a. do not result in the deterioration of water courses and which conserve and enhance:
 - i. the natural geomorphology of watercourses,
 - ii. water quality; and
 - iii. the ecological value of the water environment, including watercourse corridors;
- b. contribute towards achieving 'good status' under the Water Framework Directive in the borough's surface and groundwater bodies
- c. manage water demand and improve water efficiency through appropriate water conservation techniques including rainwater harvesting and grey-water recycling;
- d. improve water quality through the incorporation of appropriately constructed and maintained Sustainable Urban Drainage Systems or sustainable drainage techniques as set out in Policy CS25 Dealing with Flood Risk,
- e. dispose of surface water appropriately according to the following networks in order of preference:
 - i. to an infiltration based system wherever possible (such as soakaways)
 - ii. discharge into a watercourse with the prior approval of the landowner and navigation authority (to comply with part a. this must be following treatment where necessary or where no treatment is required to prevent pollution of the receiving watercourse.)
 - iii. discharge to a public sewer."

Policy CS25 "Dealing with Flood Risk" states, in part, that: "Proposals will be supported which ensure that new development is not subject to unacceptable levels of flood risk, does not result in increased flood risk elsewhere and, where possible, achieves reductions in flood risk overall."

Policy SP47" Understanding and Managing Flood Risk and Drainage" states, part, that:

"The Council will expect proposals to:

- a. demonstrate an understanding of the flood route of surface water flows through the proposed development in an extreme event where

the design flows for the drainage systems may be exceeded, and incorporate appropriate mitigation measures;

b. control surface water run-off as near to its source as possible through a sustainable drainage approach to surface water management (SuDS). The Council will expect applicants to consider the use of natural flood storage / prevention solutions (such as tree planting) inappropriate locations, and the use of other flood mitigation measures such as raised finished floor levels and compensatory storage; and

c. consider the possibility of providing flood resilience works and products for properties to minimise the risk of internal flooding to properties.”

Paragraph 163 of the NPPF notes in part that: “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.”

The applicant has provided additional drainage information at the request of the Council’s Drainage Team to assess potential options. Based on the new assessment infiltration is not possible due to coal working and excessive depths of made ground. In terms of the nearby watercourse, their assessment concluded that the addition of flow from the development may increase a flood risk to adjacent properties and that future maintenance of the watercourse is questionable.

Based on these observations and conclusion of the drainage strategy, in this instance a discharge to the existing public sewer system at a restricted rate of 3.5 l/s as required by Yorkshire Water is the only practical option for the scheme. The scheme will include on site underground drainage retention tanks in order to achieve the flow rate.

It is noted that the Council has received objections from neighbouring dwellings on the original Strata estate who are experiencing flooding to their rear gardens. This seems to be an existing situation caused by water flowing off the site and adjoining land and additional outbuildings and hardstandings that have been installed in rear gardens on the estate. The applicant is proposing to collect, attenuate and discharge surface water from the proposed development to the existing surface water drain in Blue Mans Way at a rate of 3.5 l/s (which is around 9 l/s less than the natural greenfield runoff rate). Therefore since no surface water is proposed to be discharged to the stream or private land adjacent to the application site there should be a decrease, not an increase, of surface water flood risk to neighbouring properties.

It is noted that the Inspector dealing with the previous appeal on the site noted: “I am also satisfied that the concerns of local residents with regard to flood risk have been properly considered and that the proposed drainage strategy would provide for an acceptable form of development in this regard.”

Catcliffe Parish Council state that there are no recommendations submitted by the Environment Agency in respect of drainage matters, though the Environment Agency are not a statutory consultee for developments of this scale/nature and drainage details are dealt with by Yorkshire Water.

Ecology and biodiversity

In assessing these issues, Policy CS20 'Biodiversity and Geodiversity,' notes in part, that: "The Council will conserve and enhance Rotherham's natural environment and that resources will be protected with priority being given to (amongst others) conserving and enhancing populations of protected and identified priority species by protecting them from harm and disturbance and by promoting recovery of such species populations to meet national and local targets."

Policy SP33 'Conserving and Enhancing the Natural Environment' states, in part, that: "Development should conserve and enhance existing and create new features of biodiversity and geodiversity value," and adds that: "Development will be expected to enhance biodiversity and geodiversity onsite with the aim of contributing to wider biodiversity and geodiversity delivery including, where appropriate, direct contribution to Ecological Networks, the Green Infrastructure network, Biodiversity Opportunity Areas, Nature Improvement Areas and Living Landscapes."

Policy SP35 'Protected and Priority Species' states that "Planning permission for development likely to have a direct or indirect adverse impact on the following will only be granted if they can demonstrate that there are no alternative sites with less or no harmful impacts that could be developed and that mitigation and / or compensation measures can be put in place that enable the status of the species to be conserved or enhanced:

- a. Protected species;
- b. Species of principal importance for the conservation of biodiversity;
- c. Species prioritised for action within the Rotherham Biodiversity Action Plan;
- d. Populations of species associated with statutorily protected sites. Measures to mitigate and, or compensate for, any impact must be agreed prior to development commencing and should be in place by the time development is brought into use".

The NPPF further advises in part of paragraph 170 that: "Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst other things):

- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;"

Policy SP34 'Sites Protected for Nature Conservation', states in part, that; "Development that would either directly or indirectly, adversely affect a non-statutorily protected site will not normally be permitted".

Policy SP36 'Soil Resources' states, in part, that "Development will be required to demonstrate the sustainable use of soils during construction and operation stages, where appropriate and to be determined in discussion with the Local Planning Authority..... Built development should be designed and sited with an appreciation of the relative functional capacity of soil resources and threats to soils with the aim of preserving or enhancing identified soil functions. Measures to incorporate green space and sustainable drainage elements that retain permeable surfaces, allow water infiltration, reduce soil erosion and maintain natural soil functions will be supported. Measures that waste soil resource, reduce soil quality, compact or pollute soils or that create a predominantly impermeable surface should be avoided."

The Inspector dealing with the previous appeal on the site stated that:

"Having regard to these considerations, and to the presence of other areas of better woodland nearby, I find that the site has minimal landscape or visual amenity value in its current state and condition. There is little dispute between the appellant's expert advisors and the Council's Ecologist that the site is currently of low ecological and nature conservation value and that this low value is consistent with the absence of any active management of the land for these purposes." The Inspector added: "...the proposed intervention works and future management of the woodland, the wildflower meadow and other planting proposed, and the ecological enhancements proposed in section 5 of the Ecological Appraisal would all constitute works of enhancement rather than mitigation. Together, these works would provide for a considerable enhancement of the site's biodiversity value."

In terms of ecology, the landscape strategy has been developed alongside the ecology strategy. The wildflower grassland will provide a new habitat for invertebrates and amphibians with the LEMP setting out a specific cutting regime to retain longer areas of grassland as refuge for small mammals and invertebrates. Integrated bat and bird boxes are also proposed across the development together with clear foraging corridors for wildlife including specific fence designs that will enable hedgehogs to migrate through the rear gardens of the development. Through the proposed works and ongoing maintenance of the woodland, deadwood and wood chippings will be retained on site creating further new habitats. The cuttings and chippings retained on site will be slowly broken down by fungi, slowing the release of carbon into the atmosphere.

The current proposals include a range of biodiversity enhancements including the creation of new and managed habitats within the retained woodland and wildflower grassland, the establishment of wildlife corridor through the site and the incorporation of bat and bird boxes within the proposed dwellings. As such it is considered that the proposal demonstrates net biodiversity gain and complies with paragraph 170 of the NPPF which states that: "Planning policies and decisions should contribute to and enhance the natural and local environment by: d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures."

The Council's Ecologist also agrees that management is a vital component in securing long term enhancement of the site's ecological value and biodiversity. It is possible that some small scale improvement in the site's amenity value may be achieved over a long period without any managed intervention. However, in view of the site's location adjacent to existing and proposed housing, securing an urban green space of high amenity and wildlife value which is both inviting and safe for local people to use is a much more appropriate aspiration than leaving the site in its current unmanaged state with no public access."

The Ecological Report submitted with the current application states that the site contains: "Young man-made woodland that is in poor condition through overcrowding from lack of active management. Species poor field layer dominated by locally abundant species." The Report states that there are no records of great crested newts and is not high value to amphibians. In terms of bats the report states that the site is unlikely to be of high value to local bat populations and absence of roosting is concluded.

Turning to birds the Ecology Report notes that; "some common bird species will nest on site but much of the tree planting is at the wrong growth stage to attract high numbers of nesting birds with a shaded out/absent understorey and absence of holes or cavities in standing wood. The site is assessed as not being of significant value to local bird populations." The proposed development will adhere to the recommendations of the submitted Ecology Report which notes that vegetation clearance will be undertaken outside of breeding bird season. If works are required during this time, a nesting bird survey will be carried out prior to any works. A planning informative has also been recommended to this effect.

In terms of the presence of a pond, surveys of the site have not identified any pond features within the site.

Concerns have been raised in respect of the woodland strip at the northern end of the site remaining dark with no street lighting illuminating it. There is no lighting proposed within the woodland area in order to avoid any impact on bats or other wildlife.

Finally in terms of hedgehogs the report concludes the site provides suitable habitat for this species and the proposals have incorporated measures for hedgehogs, as outlined within the Landscape and Ecological Management Plan, which includes provision for accessible gaps under garden fences which will encourage access through gardens but will discourage access into road or built-up dead ends.

The Council's Ecologist accepts the finding of the submitted information and recommends appropriate conditions to ensure that the mitigation and enhancement measures are provided during and after development.

In terms of SP36 'Soil Resources', it is noted that the site was previously used for opencast mining and was infilled with quarry waste materials on completion of the mining activity. As such existing soils

Landscape and trees

Policy CS19 of the Core Strategy states that Rotherham's network of Green Infrastructure assets, including the Strategic Green Infrastructure Corridors will be conserved, extended, enhanced, managed and maintained throughout the borough.

The policy goes on to state that a net gain in Green Infrastructure will be realised through the protection and enhancement of existing assets and the creation of new multi-functional areas, assets and linkages to include promoting: recreation and tourism, public access (including walking and cycling), green education, biodiversity (incorporating the promotion of ecological networks and habitat connectivity), public health and wellbeing, water management, the protection and enhancement of the local and national landscape character area and historic assets, the mitigation of climate change, green economic uses and sustainable land management.

In a similar vein, Policy SP32 of the Sites and Policies Plan outlines the requirement for all new development to support the protection, enhancement, creation and management of multi-functional green infrastructure assets and networks including landscape, proportionate to the scale and impact of the development and to meeting needs of future occupants and users. The states that where development proposals will most likely result in a significant impact on the borough's green infrastructure, landscape and visual amenity, proposals should assess the potential impact and propose how any negative effects will be minimised. For major development applicants are expected to demonstrate how they have considered the elements listed below, and to clearly set out appropriate enhancement, mitigation and / or compensation measures as appropriate:

- topography and geology;
- the type, location and composition of wildlife habitats and ecological networks;
- the creation of new and enhancement of existing green infrastructure to enhance links, increase function, and to address deficits, priorities, needs and opportunities;
- the presence, pattern and composition of existing historic landscape features including hedgerows, field boundaries, ancient and semi-natural woodland and veteran trees, and disused quarries;
- the pattern, distribution and relationship of footpaths, cycleways, including Public Rights of Way and national trails, and roads to settlements;
- the special qualities and landscape features which contribute to landscape character, local distinctiveness and the setting of neighbouring settlements; and where relevant, adjacent landscape character areas;

- provision for sustainable long term maintenance and management including climate change adaptation.

Policy CS21 'Landscapes,' states, in part, that: "New development will be required to safeguard and enhance the quality, character, distinctiveness and amenity value of the borough's landscapes by ensuring that landscape works are appropriate to the scale of the development, and that developers will be required to put in place effective landscape management mechanisms including long term landscape maintenance for the lifetime of the development."

The site falls within the Green Infrastructure Strategic Corridor (Rother) and in assessing proposals against these policies the impact on both the quantity and quality of the existing and proposed Green Infrastructure must be considered, rather than a simple area based approach.

In order to understand the impact of the proposed development on Green Infrastructure, it is important to firstly consider the current quality of the site and the contribution it makes to the wider Green Infrastructure network. The previous appeal decision is useful in this respect as the Inspector commented extensively on this matter when determining the appeal.

In respect of the site's value as Urban Greenspace (as it was allocated at the time of the appeal decision) and its role in the wider Green Infrastructure Corridor, the Inspector noted that the site has: "... minimal landscape or visual amenity value in its current state and condition. There is little dispute between the appellant's expert advisors and the Council's ecologist that the site is currently of low ecological and nature conservation value and that this low value is consistent with the absence of any active management of the land for these purposes."

In respect of the site's contribution to the wider Green Infrastructure Corridor along the route of the A630, the Inspector noted in respect of the appeal application that the corridor: "varies considerably in width and, even following completion of the proposed development, a continuous green corridor would remain alongside this route and the section adjoining the site would still be one of the widest sections of that corridor."

The Inspector also stated that: "Although there are 2 public rights of way (PROW) along the northern and southern boundaries I saw that these are impassable over most of their length. Some other paths follow 'desire lines' through the site with one of these providing a link from the Blue Man's Way estate to the edge of the Morrison's store car park. However, use of these routes is unauthorised and, as there is no right of public access for recreational use, the site cannot be said to have any current recreational value."

The existing paths are unsurfaced and amount to little more than muddy tracks through the dense vegetation. No views are available to either side of the paths and anyone using these would not be visible from outside of the

site. My observations on the site visit support the conclusions of the appellant's landscape appraisal that the enclosed, unmanaged character of the site is unwelcoming and that the lack of natural surveillance would reduce the feelings of safety for anyone using these paths. I consider that these factors would be likely to discourage very many people from using these existing routes..."

The Inspector concluded that the site has minimal landscape or visual amenity value in its current state and condition, and that: "The appeal proposal would result in only 40% of the site area being retained as green space but would lead to a substantial improvement in the value and usability of that retained land as urban green space. In combination with the long term management and maintenance that would be secured through the Unilateral Undertaking the planned interventions would enable the development of mature broadleaved woodland of substantially greater landscape value and visual amenity than the existing scrub vegetation. This would provide a more inviting and much safer space for the occupiers of the proposed homes and other local residents to use for informal recreation."

Although several years have passed since the appeal decision, the site itself remains unchanged and the characteristics highlighted by the Inspector remain. The Inspector confirms that it would take hundreds of years for the site to develop into woodland of any quality without any managed intervention. The Inspector goes on to state in this regard that without intervention or some form of formal management the site: "...would not achieve a high amenity value...The Council's ecologist also agrees that management is a vital component in securing long term enhancement of the site's ecological value and biodiversity. It is possible that some small scale improvement in the site's amenity value may be achieved over a long period without any managed intervention."

However, in view of the site's location adjacent to existing and proposed housing, securing an urban green space of high amenity and wildlife value which is both inviting and safe for local people to use is a much more appropriate aspiration than leaving the site in its current unmanaged state with no public access. Without intervention and long term management of the type that the appeal proposals would deliver that outcome is unlikely to be achieved."

The Inspector was therefore of the opinion that the site provided minimal landscape and visual amenity value as well as being of low ecological quality. The Inspector was also of the opinion that the use and access to the site was unauthorised and its recreational value was limited. However, even with access permitted, the Inspector considered that the site was unwelcoming and unsafe due to its overgrown and enclosed nature, with very little natural surveillance. As such, it is considered the site currently makes a limited contribution to the Green Infrastructure network and has the potential through appropriate intervention and management to be a far more valuable Green Infrastructure asset.

The proposed development will result in the removal of a number of existing trees on site in order to accommodate the proposed affordable dwellings. However, as the site is allocated for Residential use in the Local Plan the loss of some trees on the site has been accepted by the Council in order to allow housing to come forward. The submitted tree survey confirm that the majority of trees on site as young trees of limited individual merit within low quality category c groups.

In order to mitigate the removal of trees on site and to enhance the Green Infrastructure asset, a detailed landscape masterplan and a Landscape and Ecological Management Plan (LEMP) have been prepared and submitted in support of the application. The masterplan shows how a belt of existing trees will be retained on site to provide a buffer to the existing bypass to the north. The masterplan and LEMP also propose some initial thinning to the woodland followed by a subsequent programme of tree planting and ongoing management and maintenance that will ensure the retained tree belt will evolve into an improved and well-established woodland.

Alongside the woodland a public wildflower grassland is proposed, which, together with the residential development itself, will be punctuated with 46 new heavy standard trees of significant greater quality to those set to be removed.

In order to improve connectivity between the site and surrounding areas, the existing PROW routes and informal footpath routes through the site has been discussed and reviewed with the Council's Public Rights of Way team. The resulting proposals show a series of formal footpaths that have been carefully designed to link with existing public rights of way within the area. This includes a new pedestrian connection to the Barratt scheme and a newly formed pedestrian footpath to the Morrisons foodstore. The formalisation of footpaths through the enhanced woodland and the grassland will result in a significant improvement in the accessibility of the site and the new spaces for residents. This in turn will promote recreation, public health and wellbeing within the area.

In summary, and in the context of policies CS19 and SP32, the proposed development will:

- Retain a woodland belt, which as noted by the Inspector in relation to the appeal decision, will maintain a continuous green corridor and together with the areas adjoining the site will be one of the wider sections of the green infrastructure corridor along the route of the A630;
- Create a number of new enhanced and managed multi-functional landscape and amenity areas for the enjoyment of local residents and wildlife;
- Establish a long-term maintenance plan for the proposed woodland and grassland ensuring that it will improve in quality over time. This includes practices that will promote biodiversity and contribute to slowing down the release of carbon into the atmosphere

- Create new pedestrian routes through and around the site which will improve public accessibility and promote recreation and enjoyment of the proposed new spaces; and
- Create a number of new habitats for wildlife contributing to an improvement in the biodiversity of the site.

The proposed landscape scheme and the associated enhancements are considered to outweigh and offset the loss of the existing low-quality trees on the site as well as the limited contribution the site currently makes to the immediate and wider green infrastructure. As a result, it is considered that these proposals will deliver a net gain in the quality of the green infrastructure on the site and wider network and therefore the proposed development is considered compliant with policy CS19 and SP32.

In terms of the loss of trees, the scheme will in effect result in the loss of the majority of the emerging woodland, with the retained woodland abutting the Sheffield Parkway being enhanced. The Inspector dealing with previous appeal on the site stated that:

“Because expediency is commonly a factor in a local planning authority’s decision to make a TPO the presence of such an Order, particularly when it relates to a woodland group rather than to individual trees, is not of itself an indicator that all of the trees within the order are of a high quality.

The standard tool for undertaking an objective assessment of the condition and value of trees is by means of an arboricultural survey carried out in accordance with BS5837:2012. The survey undertaken by Wardell Armstrong was carried out in accordance with that guidance. Wardell Armstrong found only 6 individual trees that should be separately classified and that the rest of the trees on the site comprised dense scrub of low amenity value.

My own observations are that, with the exception of the 6 trees separately identified in the survey, all the trees are of relatively consistent species mix, age, spacing and condition. Based on these observations I accept Mr Popplewell’s evidence that there is no meaningful variation in the quality of the trees across the site, that the scrub has no particular arboricultural merit and that all scrub areas have similar future prospects. In particular, although some more recent regeneration has taken place following the clearance of a strip along the southern edge of the woodland, there is no significant distinction, in terms of the amenity value or quality of the trees, between that part of the site proposed for development and that which would be retained as green space.

In these circumstances I consider that I have sufficient information before me to conclude that the removal of substantial blocks of trees within the area proposed for built development would not result in unacceptable harm to the amenity value of the site and that the development of up to 64 dwellings at the density envisaged is acceptable in principle. Since no significant distinction, in terms of the amenity value and quality of the trees, can be drawn between the two parts of the site I also consider it appropriate that any outline permission

should be tied by means of a condition to the Parameters Plan. Together with the obligations in the UU, this would help to ensure that the interventions necessary to secure the establishment of a more mixed and sustainable woodland on the retained land are secured.”

The Inspector concluded that the proposal would not have an unacceptable effect on the amenity value of the woodland area protected under the TPO.

The applicant intends to plant 46 heavy standard trees within the main part of the development site and to create areas of grassland, some of which would be regularly mown, some only mown once a year, and small pockets not mown at all, so as to provide greater diversity. In addition, the woodland areas to be retained would be thinned as part of an ongoing landscape management plan to improve the age diversity and structure of the retained trees in the long-term. Improving these groups and planting additional trees within and between them will also have the added benefit of increasing the visual screening between the site and the surrounding areas.

Therefore subject to relevant planning conditions, the proposal is considered to be appropriate in relation to its impact on trees and hedgerows at the site. The proposal is therefore in accordance with the above Local Plan policies, on this allocated site.

General amenity issues

Paragraph 127(f) of the NPPF states planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Local Plan policy CS27 ‘Community Health and Safety’ states: “Development will be supported which protects, promotes or contributes to securing a healthy and safe environment and minimises health inequalities.” Policy SP52 ‘Pollution Control’ states: “Development proposals that are likely to cause pollution, or be exposed to pollution, will only be permitted where it can be demonstrated that mitigation measures will minimise potential impacts to levels that protect health, environmental quality and amenity.

In respect of amenity there are two elements

- i) the impact of the construction phase on existing local residents; and
- ii) the impact of the development once constructed on the amenity of both existing local residents and future residents of the site.

i) Impact of the construction phase on existing local residents:

In relation to construction, while some noise is to be expected with development works of this scale it is important to limit the impact of the works on existing nearby residents. Good construction practice and appropriate

consideration of working hours should ensure that this occurs. This will be secured by the imposition of a condition requiring the submission of a Construction Management Plan which include details of access to the site for construction vehicles, traffic management during construction work, location of site compounds and staff parking; measures to deal with dust and mud on the highway; and details of hours of construction and deliveries. It is noted that construction traffic will access the site via Blue Mans Way. No other accesses will be created.

ii) Impact of the development once constructed on the amenity of both existing local residents and future residents of the site.

Air Quality:

Policy CS30 'Low Carbon & Renewable Energy Generation' states: "Development must seek to reduce carbon dioxide emissions thorough the inclusion of mitigation measures..." In addition, regard will be had to the guidance contained within Council's adopted SPD 'Air Quality and Emissions'.

NPPF states at paragraph 110 that amongst other things applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

The proposed development for 74 dwellings is classified as a Medium proposal as set out in the adopted Rotherham SPD 'Air Quality and Emissions'.

Box 3 of the SPD includes the following mitigation options:

- Provision of charging points for electric vehicle charging – 1 point per unit
- Consideration of air quality in designing the layout of the development;
- Provision of secure cycle storage
- Provision of incentives for the use of public transport (Travel Plan).

The site is not located within an Air Quality Management Area but is next to the A630 Parkway which has been identified as non-compliant with the EU Air Quality Directive. A buffer zone will therefore be required between the nearest property and the A630, to ensure that future occupiers of the properties will not be exposed to elevated levels of air pollution. The plan submitted with the application indicates that there will be a distance of 50m between the edge of the A630 and the nearest proposed property on the development site, which is acceptable. It is also noted that a substantial tree belt is to be retained/enhanced between the Parkway. The proposal includes the installation of electric vehicle charging infrastructure at each property in line with Rotherham MBC's SPD No. 2 [Air Quality and Emissions \(rotherham.gov.uk\)](https://rotherham.gov.uk).

The applicant has provided a plan showing each property having an EV Charging point and details of the type of Charging Point has been conditioned. In addition, a commuted sum of £38,000 (£500 per dwelling) towards sustainable transport measures is proposed.

Concerns have been raised that the removal of trees would reduce the pollution buffer to the existing residents from the A630 Parkway. The proposed development retains part of the woodland along the northern boundary of the site which will continue to provide both a visual and environmental buffer between the A630 and the proposed housing. The Environmental Health Officer has reviewed the proposed development and not raised any air quality or pollution related objections to the proposals.

The information is acceptable and as such there are no issues in respect of air quality impact from the development and subject to conditions, the scheme would comply with policy CS30, the adopted SPD 'Air Quality and Emissions' and paragraph 110 of the NPPF. One resident notes Increase in pollution from cars coming and going along Blue Mans Way though as noted above, the site is not within an Air Quality Management Area such that any increase would be within tolerable limits.

Noise impacts:

The applicant has submitted a comprehensive noise impact assessment that provides both existing and predicted levels once the development is complete. The Noise Report indicates that the predicted external ambient noise levels within the garden/external amenity areas vary across the site and concludes that without the provision of any mitigation measures, the ambient noise levels within the gardens and external amenity areas are predicted to be at the upper guideline value of 55 dB LAeq,T for external amenity areas, or above.

As such noise mitigation is to be provided in the form of acoustic fencing employed to reduce the noise levels within the gardens and external amenity areas to below 55 dB LAeq,T and in some areas to below 50 dB LAeq,T. These mitigation measures have been conditioned as part of this permission and final testing is required to ensure the as built development meets these requirements.

It is noted that a resident on the original Strata site has raised concerns that the loss of the existing woodland may increase the level of noise to existing dwellings. It is noted an acoustic fence is also proposed along the boundary with the Blue Mans Way original Strata site and as such no significant additional noise harm will result from the proposed development.

Impact on infrastructure, including Education and local GPs

In respect of the impact on Education provision in the locality the scheme includes 100% affordable housing only and the Council does not require education contributions for such schemes, in accordance with the Council's adopted Education Contributions Policy. However, Education Service have

noted that the catchment area school for this development is Catcliffe Primary, which following the opening of Waverley Junior Academy is now undersubscribed. Therefore an education contribution for primary would not in any event have been requested.

With regards to GP Surgeries, the NHS note that the site falls within new health centre planned for Waverley, which is due for completion by winter 2022. As such no additional funding is required.

Other issues raised by objectors

A number of residents on the adjacent Barratts development have indicated that Barratts indicated during the sale that the land would not be developed. This appears to be incorrect information from Barratts as the outline residential permission on the land (granted in February 2017) pre dates the planning permission for the Barratts development (June 2018).

In addition one objector has raised concerns about crime, though the layout is well designed with well overlooked public spaces and few points of access to rear gardens for criminals. In addition the additional technical security measures recommended by South Yorkshire Police will be forwarded with any subsequent approval.

Planning Obligations

As noted above, the scheme proposes 100% affordable housing provision, and this would be addressed by way of a recommended planning condition.

The Community Infrastructure Regulations 2010 introduced a new legal framework for the consideration of planning obligations and, in particular, Regulation 122 (2) of the CIL Regs states:

"(2) Subject to paragraph (2A), A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development."

All of the tests must be complied with and the planning application must be reasonable in all other respects. This is echoed in Paragraph 56 of the NPPF.

With the above circumstances in mind the following S106 Obligations are recommended should Planning Permission be approved.

- Commuted sum of £500 per dwelling towards sustainable transport measures
- Establishment of a Management Company to manage and maintain the areas of Greenspace

- Commuted sum of £4,500 toward a Traffic Regulation Order relating to a 20 mph limit on the estate roads.

Having regard to the above it is considered that the above obligations meet the criteria set out in a Paragraph 56 of the NPPF and the Community Infrastructure Regulations and are therefore considered to be acceptable

Conclusion

The site was previously allocated for Urban Greenspace purposes in the former Unitary Development Plan (UDP) but that Plan has been replaced with the adopted Local Plan, which includes the Sites and Policies Document that was adopted on 27 June 2018. The Sites and Policies Document removed the site from the Urban Greenspace and allocated it for 'Residential' purposes. It forms allocated Housing Site H100 and is located within a suitable distance from Catcliffe Village centre and Morrisons amongst others. As such, the proposal is acceptable in principle.

The scheme is acceptable in terms of the design and layout, highway safety, provision of open space, drainage, ecology and landscaping as well as other general amenity issues identified above. The scheme is considered to be sustainable and has notable benefits in terms of 100% affordable housing provision and associated social and economic benefits arising from such provision. Development in this location will support the ongoing delivery of services and facilities within Catcliffe and provide much needed social housing to meet Local Plan targets for housing development within the Plan period to 2028.

Overall the scheme is considered to be in accordance with the Development Plan and with the policies in the NPPF. As such, the proposal is recommended for approval, subject to the signing of a S106 legal agreement as set out above and to the following conditions.

Conditions

Article 35 of the Development Management Procedure Order 2015 requires that, where planning permission is granted subject to conditions, the decision notice must state clearly and precisely the full reasons: (i) for each planning condition; and (ii) in the case of each pre-commencement condition, for the condition being a pre-commencement condition. The reasons for each condition are provided below. Condition numbers 5 and 19 of this permission are pre-commencement condition (since they require matters to be approved before development works begin). These are justified as being pre-commencement condition because:

- i. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.

ii. The details required under conditioned numbered 5 and 19 are fundamental to the acceptability of the development and the nature of the further information required to satisfy this condition is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.

General

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990 and to assist in the delivery of development.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications and as shown on the approved plans (as set out below)

DR-5126-01.02 Landscape Specification Rev B

DR-5126-01.02 Planting Specification 1 Rev B

DR-5126-01.02 Planting Specification 2 Rev B

DR-5126-01.02 Planting Specification 3 Rev B

18-CL4-SEGB-CA-01B-TPO

3B4PCT – 933 – BRICK ELEVATIONS 101

3B4PCT – 933 – STONE ELEVATIONS 102

3B4PCT – 933 – FLOOR PLANS 100

MIY 0B_NDSS_COMO – ELEVATIONS 102

MIY 0B_NDSS_COMO – FLOOR PLANS 100

MY A – 151 – BRICKWORK 100

MY A – 151 – STONE 101

MY A – 251 – BRICK 100

MY A – 251 OPP – BRICK 100

MY A – 352 – BRICK 100

MY A – 352 OPP – BRICK 100

MY A 451 – BRICK 100

MY A451 OPP – BRICK 100

18-CL4-SEGB-CA-02 SITE LAYOUT REV I

18-CL4-SEGB-CA-03 BOUNDARY TREATMENT & MATERIALS PLAN REV A

18-CL4-SEGB-CA-04 MASSING PLAN

18-CL4-SEGB-CA-04 LOCATION PLAN REV A

18-CL4-SEGB-CA-05 CAR PARKING & EV CHARGING PLAN

18-CL4-SEGB-CA-06 SITE SECTION & STREETSCENES

C&RSP/C CYCLE & REFUSE STORAGE POD (COMMUNAL 6 UNIT)

C&RSP/S/DB CYCLE & REFUSE STORAGE POD (SINGLE & DOUBLE)

C1065233 STANDARD DISTRIBUTION SUBSTATION DRAWING REV 0

Brooks Landscape and Ecological Management Plan (ER-5126-02B)_ dated 8.06.2021.

Reason

To define the permission and for the avoidance of doubt.

03

The materials to be used in the construction of the external surfaces of the development hereby permitted shall be in accordance with the details on the approved Materials Plan K. Prior to the commencement of any overground development samples of the materials shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details/samples.

Reason

To ensure that appropriate materials are used in the construction of the development in the interests of visual amenity and in accordance with Local Plan Policy

04

The boundary treatment shall be provided on site in accordance with the approved Boundary Treatment Plan Drawing No 18-CL4-SEGB-CA-03. The approved boundary treatment shall be implemented prior to the occupation of each dwelling.

Reason

In the interests of the visual amenity of the area and in accordance with the Local Plan Policies.

05

The development shall not begin until a scheme for the provision of 100% affordable housing across the whole of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:

- (i) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
- (ii) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

Reason

The development of the application would not be acceptable without the provision of all of the dwellings being affordable in accordance with Policy CS7 of the Core Strategy and the provisions of the NPPF.

Transportation/Sustainability

06

Before the development is brought into use the car parking area shown on the approved plans shall be provided, marked out and thereafter maintained for car parking.

Reason

To ensure the provision of satisfactory garage/parking space and avoid the necessity for the parking of vehicles on the highway in the interests of road safety.

07

Before the development is brought into use, that part of the site to be used by vehicles shall be properly constructed with either

- a) a permeable surface and associated water retention/collection drainage,
- or
- b) an impermeable surface with water collected and taken to a separately constructed water retention / discharge system within the site.

The area shall thereafter be maintained in a working condition.

Reason

To ensure that surface water can adequately be drained in accordance with the Local Plan and the South Yorkshire Interim Local Guidance for Sustainable Drainage Systems.

08

Prior to the commencement of any above ground development road sections, constructional and drainage details, and timing of the carrying out of the works, shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall be implemented in accordance with the approved details.

Reason

In the interest of highway safety.

09

The measures contained in the submitted Construction Management Plan shall be implemented throughout the construction period.

Reason

In the interests of highway safety, residential amenity and ecology.

10

No dwelling shall be occupied until the related proposed electric vehicle charging point(s) have been installed in the locations shown on the approved Car Parking and EV Charging Plan (Ref: 18-CL4-SEGB-CA-05) dated 17.12.20 and in accordance with the details shown on the approved Pod Point

Solo Datasheet (Ref: PP-D-130042-11), installation guide (Ref: PP-D-130012-13) and freestanding mount (Ref: PP-D-150168-1) specification sheets.

Reason

In the interests of sustainable development and air quality in accordance with the Local Plan and the NPPF.

11

Details of a pedestrian link between Blue Mans Way and the Barratts/David Wilson Homes site to the south shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented before the development is first occupied.

Reason

In the interests of sustainable development in accordance with the Local Plan and the NPPF.

Drainage

12

Above ground development or any drainage works shall not begin until a foul and surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the construction details and shall subsequently be implemented in accordance with the approved details before the development is completed. During construction, if the approved scheme has not been implemented, temporary arrangements shall be put in place to limit surface water runoff to the agreed discharge rate. The scheme to be submitted shall demonstrate:

- The utilisation of holding sustainable drainage techniques (e.g. soakaways);
- Other means of surface water drainage have been properly considered and why they have been discounted;
- The limitation of surface water run-off to equivalent greenfield rates (i.e. maximum of 3.5 litres/second/Ha, unless otherwise agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.
- The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus a 30% allowance for climate change, based upon the submission of drainage calculations; and
- A maintenance plan including responsibility for the future maintenance of drainage features and how this is to be guaranteed for the lifetime of the development.

Reason

To ensure that the development can be properly drained in accordance with the Local plan and the NPPF.

13

Construction of roads or dwellings shall not begin until a flood route drawing has been submitted to and approved in writing by the Local Planning Authority. The drawing shall show how exceptional flows generated within or from outside the site will be managed, including overland flow routes, internal and external levels and design of buildings to prevent entry of water. The development shall not be brought into use until such approved details are implemented.

Reason

To ensure that the development can be properly drained and will be safe from flooding in accordance with the Local plan and the NPPF.

Landscaping/trees

14

Landscaping of the site as shown on the approved plan (drawing no. DR-5126-01.02 Landscape Specification Rev B, DR-5126-01.02 Planting Specification 1 Rev B, DR-5126-01.02 Planting Specification 2 Rev B & DR-5126-01.02 Planting Specification 3 Rev B) shall be carried out during the first available planting season after commencement of the development. Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced within the next planting season. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

Reason

To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity.

15

All tree protection methods detailed in the approved Arboricultural Method Statement shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

Reason

To ensure appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of Rotherham's environment, air quality and adapting to and mitigating climate change in accordance with Rotherham's Core Strategy Policies.

16

No trees, shrubs or hedges within the site which are shown to be retained on the approved plans (Plan/Drawing:) shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without previous written

consent of the Local Planning Authority. Any shrubs or hedges removed without consent or dying or being severely damaged or becoming seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with shrubs or hedge plants or similar species capable of achieving a comparable size unless the Local Planning Authority gives written consent to any variation.

Reason

To secure the protection throughout the time that development is being carried out, of trees, shrubs and hedges growing within the site which are of amenity value to the area.

Ecology

17

The development shall be carried out in accordance with the recommendations set out in the Brooks Ecological Survey (ER-5126-02A) dated 24.03.2021 and the Brooks Landscape and Ecological Management Plan (ER-5126-02B)_ dated 8.06.2021. . Thereafter such measures shall be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason

In order not to disturb any bats or birds and to make adequate provision for species protected by the Wildlife & Countryside Act 1981.

18

The Bat and Bird boxes recommended within the Brooks Ecological Survey (ER-5126-02A) dated 24.03.2021, shall be provided prior to the first occupation of that dwelling or before the public open space is brought into use and shall thereafter be retained and maintained unless otherwise agreed with the Local Planning Authority.

Reason

In order to make adequate provision for species protected by the Wildlife & Countryside Act 1981 and to mitigate the loss of a small number of sub-optimal roosting features.

Land Contamination

19

Prior to commencement of development:

(i) An intrusive investigation and subsequent risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 – 4).

(ii) If significant contamination is identified at (i) a Remediation Method Statement shall be submitted to and approved by the local planning authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.

(iii) The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

(iv) Following completion of any required remedial works a Verification Report should be forwarded to the local planning authority for review and comment. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. It shall also include details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved in writing by the local planning authority.

(v) If subsoils or topsoils are to be imported to site for remedial works or garden/soft landscaping areas, these soils will need to be tested at a rate and frequency to be agreed in writing with the local planning authority to ensure they are free from contamination. The results of the testing shall be provided to the local planning authority in the form of a verification report confirming that soils of sufficient quality and quantity have been placed.

Noise

20

No dwelling shall be occupied unless it has been constructed in accordance with the façade design and mitigation measures set out in Section 4.2 of the ENS Noise Assessment Report (IA/9431/20/9478/v2) dated 21.12.20, and that a noise assessment has been carried out, in accordance with details to be submitted to and approved by the Local Planning Authority, demonstrating that the noise mitigation strategy described in the Noise Assessment has been successful and the parameters discussed in Section 4 of the report have been met.

Reason

In the interests of the future occupiers of the dwellings.

21

No dwelling shall be occupied unless the proposed development has been constructed in accordance with section 4.3 of the ENS Noise Assessment Report (IA/9431/20/9478/v2) dated 21.12.20 and the proposed fencing shown

on the plan 18-CL4-SEGB-CA-03 BOUNDARY TREATMENT & MATERIALS PLAN REV A and that a noise assessment has been carried out, in accordance with details to be submitted to and approved by the Local Planning Authority, demonstrating that the noise mitigation strategy described in the Noise Assessment has been successful and the parameters discussed in Section 4 of the report have been met.

Reason

In the interests of the future occupiers of the dwellings.

Communication

22

Prior to first occupation of a dwelling on this site, information relating to the availability of infrastructure to enable the provision of gigabit capable full fibre broadband should be submitted and approved by the LPA. If the necessary infrastructure is available to enable provision, details of measures to facilitate the provision of gigabit-capable full fibre broadband for the development hereby approved, including a timescale for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason

In accordance with Local Plan Policy SP61 'Telecommunications' and Chapter 10 of the NPPF.

Informatives

01

You should note that the Council's Neighbourhood Enforcement have a legal duty to investigate any complaints about noise or dust which may arise during the construction phase. If a statutory nuisance is found to exist they must serve an Abatement Notice under the Environmental Protection Act 1990. Failure to comply with the requirements of an Abatement Notice may result in a fine of up to £20,000 upon conviction in the Magistrates' Court. It is therefore recommended that you give serious consideration to reducing general disturbance by restricting the hours that operations and deliveries take place, minimising dust and preventing mud, dust and other materials being deposited on the highway.

02

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

Furthermore, vegetation removal should be undertaken outside of the bird breeding season, March to September inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present, work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.

03

The planning permission is subject to a Legal Agreement (Obligation) under Section 106 of the Town and Country Planning Act 1990. The S106 Agreement is legally binding and is registered as a Local Land Charge. It is normally enforceable against the people entering into the agreement and any subsequent owner of the site.

04

The South Yorkshire Police Architectural Liaison Officer recommends that the development is designed and built to Secured by Design standards. www.securedbydesign.com

05

Yorkshire Water note:

i) If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team (telephone 0345 120 84 82, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition as supplemented by Yorkshire Water's requirements.

06

Stopping Up Order:

The proposed development involves the diversion/stopping up of an existing definitive public right of way. As such, you should request an application form from the Council's Public Rights of Way Section (01709 822932) under Section 257 of the Town and Country Planning Act 1990

Applications can be made under the Road Traffic Regulation Act 1984 section 1 for a temporary restriction of traffic on public rights of way if it is required because works are proposed to be executed on or near the path which would create a potential danger to the public. Temporary restrictions are allowed for a maximum of 6 months at any one time.

POSITIVE AND PROACTIVE STATEMENT

The applicant and the Local Planning Authority engaged in pre application discussions to consider the development before the submission of the planning application. The application was submitted on the basis of these discussions, or was amended to accord with them. It was considered to be in accordance with the principles of the National Planning Policy Framework.

Appeal Decision

Inquiry held on 6-8 December 2016

Site visit made on 8 December 2016

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 February 2017

Appeal Ref: APP/P4415/W/16/3149298

Land at Blue Man's Way, Catcliffe, Rotherham S60 5UR

- 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 Network Space against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2014/1342, dated 1 October 2014, was refused by notice dated 22 February 2016.
 - The development proposed is outline application for the erection of up to 64 dwelling houses with details of access.
-

Decision

1. The appeal is allowed and planning permission is granted in outline with details of access for the erection of up to 64 dwelling houses at land at Blue Man's Way, Catcliffe, Rotherham S60 5UR in accordance with the terms of the application, Ref RB2014/1342, dated 1 October 2014, subject to the conditions in the schedule attached to this decision.

Procedural Matters

2. The planning application was submitted by Langtree Group plc. That company subsequently changed its name to Network Space and the appeal has been accepted with the revised company name listed as the appellant.
 3. The application was submitted with all matters other than details of access reserved for subsequent approval and I have considered the appeal on this basis. The number of dwellings proposed was reduced from 'up to 72' to 'up to 64' prior to the application being determined by the Council and I have adopted the amended description of development as used in the decision notice and appeal form that reflects this change.
 4. Following the refusal of planning permission the Council made a Tree Preservation Order (TPO) in relation to the major part of the appeal site which was confirmed on the 23 June 2016. The TPO covers the whole of the appeal site, other than a small area of land at the eastern end, which would form part of the proposed access road, and is a 'woodland' TPO which gives protection to all of the trees within the designated area.
 5. A Statement of Common Ground (SoCG) has been agreed between the Council and the appellant and I have taken this into account in my determination of the appeal.
-

6. Although there is some difference of view as to the exact level of supply the SoCG confirms that the Council is unable to demonstrate a 5 year forward housing land supply (HLS) as required by paragraph 47 of the National Planning Policy Framework (Framework). The second part of paragraph 49 of the Framework is accordingly engaged and relevant development policies for the supply of housing should not be regarded as being up to date.
7. A unilateral undertaking (UU) (Document 32) prepared in accordance with Section 106 of the Town and Country Planning Act 1990 has been submitted by the appellant. The UU includes obligations in respect of the future management and maintenance of the green space proposed to be retained within the development scheme and the payment of financial contributions towards the provision of additional primary school places, measures to encourage and increase the use of non-car modes of transport, and the making of a Traffic Regulation Order to introduce a 20 MPH speed limit on the estate roads within the proposed development.

Main Issues

8. The main issues in the appeal are:
 - (a) The effect on the Council's approved spatial strategy and settlement hierarchy;
 - (b) The effect on the site's value as urban green space and part of a green infrastructure corridor and the adequacy of the proposed mitigation measures; and
 - (c) The effect on protected trees.

Reasons

The development plan

9. The development plan for the area comprises the Rotherham Local Plan Core Strategy 2013-2028 (Core Strategy), adopted in September 2014, and the saved policies of the Rotherham Unitary Development Plan (UDP), adopted in June 1999. The Council is preparing the Rotherham Sites and Policies Local Plan (SPLP) (2015). The publication version of the SPLP was submitted to the Secretary of State in March 2016 and the independent examination of the draft plan is currently in progress. The Council anticipates the publication of the examining Inspector's report in the spring of 2017 with adoption of the plan following in mid-2017 at the earliest.
10. There was a considerable debate at the inquiry as to how the key development plan policies should be interpreted and applied to the appeal proposal and over which, if any, policies should be regarded as being 'relevant policies for the supply of housing' for the purposes of paragraph 49 of the Framework. I have considered the evidence and submissions made and set out my findings on these matters within my discussion of the main issues below.

Effect on spatial strategy and settlement hierarchy

11. Core Strategy Policy CS 1 is intended to be a strategic policy rather than a development management tool. This is apparent from its location with Chapter 5 of the Core Strategy which is introduced by the statement, at paragraph 5.0.1, that '*this chapter sets out the strategic policies designed to achieve the Plan's objectives*' and by the policy's heading of '*Delivering Rotherham's Spatial*

Strategy'. Parts 2, 3 and 4 of Policy CS 1 are specific respectively to a strategic allocation, proposed new community and broad area of growth designated in the plan and only part 1 is relevant to the appeal proposal.

12. A central part of the spatial strategy set out in Policy CS 1 is that development should be directed to Principal Settlements and Local Service Centres in order to meet the needs of the settlement and its immediate area and to help create a balanced, sustainable community. In pursuance of that strategy, the policy states that, where development cannot be accommodated in a sustainable way to meet the needs of the settlement, consideration will be given to identifying sites in other appropriate settlements within the same tier or within or on the edge of a higher order settlement before searching for sites in settlements in a lower order in the hierarchy.
13. This statement sets out the approach that the Council proposes to take, when allocating sites for development, in seeking to strike an appropriate balance between meeting the needs of each settlement and ensuring that the level of development proposed is appropriate to the size of the settlement and to the capacity of the services and facilities within it. This interpretation is supported by the explanatory text at paragraph 5.2 of the Core Strategy. This states that, in determining allocations in the SPLP, consideration will be given to the capacity within each of the settlement groupings and that, if there is insufficient capacity within a settlement grouping, identification of appropriate and suitable sites will be undertaken within settlements in the same tier before searching for sites in lower order settlements.
14. Hence, insofar as the policy does introduce a 'hierarchical search requirement' as asserted by the Council, this applies to the Council's own plan making process and is triggered only if sufficient suitable sites cannot be identified to meet the development needs of any particular settlement grouping. There is nothing in the wording of the policy that places an obligation on a developer seeking planning permission on a windfall site to undertake a search of potential alternative sites in higher order settlements. Neither is there any evidence that the Council has required other applicants to undertake such a search.
15. The columns in the table within Policy CS 1 relating to housing are headed '*Indicative Housing Provision*'. The word '*indicative*' clearly applies both to the absolute numbers and to the percentages relating to the broad distribution of housing across the borough and the footnote states that the figures in the table are not ceilings. The statement within that footnote that '*windfalls on small sites will provide additional flexibility*' confirms that the figures are not to be treated as maximums and demonstrates that this part of the policy is primarily intended to provide a framework for identifying site allocations to be taken forward in the SPLP.
16. Paragraph 15 of the Core Strategy Examining Inspector's report (Document 27) shows that the statements in the footnote were introduced in order to provide clarity as to the status of the indicative figures. Paragraph 38 of that report notes that some of the percentages in the tables may have to be refined in the light of the preparation of the SPLP and consultation upon it and that '*it should be confirmed that the figures in Policy CS 1 for housing, employment and retail provision are indicative*'. This is also evidenced by the statement, at paragraph 5.2.6 of the Core Strategy, that '*the percentages and figures given are*

indicative and the precise amount of development to be delivered will be determined through the Sites and Policies document having regard to a range of factors.'

17. On the Council's evidence, the existing commitments within the Catcliffe, Treeton and Orgreave Local Service Centre (LSC) would provide some 160 dwellings compared to the indicative figure of 170 shown in the table in Policy CS 1 (HS paragraph 6.10). If the appeal is allowed the proposal would contribute up to 64 additional dwellings, thereby taking the overall number above the 170 figure, and may possibly result in a situation where the LSC would accommodate more than 1% of all new dwellings in the borough over the Core Strategy plan period. However, the figures in the table are indicative and Policy CS1 anticipates additional provision from windfall sites.
18. An exceedance of the indicative housing figure by such a margin cannot, of itself, be concluded likely to cause significant harm since the Council proposes an even larger exceedance through the proposed allocation of a site in Treeton (site H57) for 75 dwellings, with 70 units to be developed within the plan period. Had the Council genuinely considered such a level of exceedance to represent an unacceptable breach of its spatial strategy it would not have promoted the release of that Green Belt site and would not be continuing to defend that allocation against duly made objections at the SPLP examination. I find it difficult to envisage how exceptional circumstances, as required by Paragraph 83 of the Framework, could be demonstrated to justify the release of a Green Belt site where the level of new housing proposed would, on the Council's own assessment, harm the approved settlement strategy.
19. The Council asserts that the fact that planning permissions have been granted on allocated sites is irrelevant since the grant of such permissions reflects a plan-led system. That may be true but the largest site (89 dwellings) within the LSC with planning permission (land to the east of the Morrison's store) is allocated for retail use in the UDP. In granting that permission the Council treated that site as a windfall site and the application as a departure from the UDP (page 35 of officer's report at CDG1). The officer's report confirms that the site had been considered in the draft SPLP for possible housing use but that had been rejected in favour of an employment allocation. The report includes no discussion of what effect a grant of permission would have on the level of housing development in the LSC and no consideration of any potential conflict with Policy CS 1.
20. Ms Sleight asserts that the appeal proposal would overwhelm the settlement but no evidence has been produced to substantiate that claim. Additional demand for primary school places would adequately be mitigated by the education contribution within the UU and the Council's Community Infrastructure Levy (CIL) Compliance Note (Document 33) confirms that the proposed contribution would be in accordance with the standard payment per dwelling and would meet the requirements of Core Strategy Policy CS 29. The site immediately adjoins the Morrison's superstore and has good access to other shops and services nearby and to bus services to and from Rotherham town centre. It enjoys ready accessibility to the nearest primary and secondary schools and is within walking or cycling distance of a major employment development at the Advance Manufacturing Park which could provide a range of potential job opportunities for future residents of the proposed development. There is no

evidence that local health services would be placed under undue pressure as a result of the proposed development.

21. In light of the above considerations I find that the proposal would not cause any harm to the Council's approved spatial strategy or settlement hierarchy and that no conflict with Core Strategy Policy CS 1 would arise.

Urban green space and green infrastructure corridor

22. The appeal site is designated in the UDP as urban green space. Saved UDP Policy ENV5.1 states that development which would result in the loss of such space will only be permitted if certain criteria are satisfied.
23. On an objective reading of the language used, compliance with Policy ENV5.1 is achieved if clauses (i), (iii) and (iv) are satisfied or, in the alternative, if clauses (ii), (iii) and (iv) are satisfied. I see no basis for the Council's suggested different interpretation of the policy or for its contention that a proposal must positively conform to Policy CR.2.2 in order to meet the requirements set out in clause (iii). If, as in this case, the land in question does not fall within any of the categories to which Policy CR.2.2 expressly relates that policy is not applicable to the proposal and no conflict arises; clause (iii) of Policy ENV5.1 is therefore satisfied.
24. I find that the reference, in clause (iv) of Policy ENV5.1, to 'the Plan' can sensibly only be interpreted as meaning the UDP since this is the definition given in the glossary. I do not accept that the reference can logically be understood to embrace other development plan documents which were neither being prepared nor contemplated at the time of the UDP's adoption.
25. As there is no assertion that the proposal would conflict with any other UDP policies or proposals the key consideration is whether or not the proposal would enhance the local urban green space provision. The use of the word 'enhance' manifestly implies that the policy can be satisfied through a qualitative improvement in provision and I do not accept that Policy ENV5.1 requires that there should be no overall reduction in the area of green space in the locality.
26. I am satisfied that, with the exception of the 6 that were separately assessed in the arboricultural survey, the remainder of the 'trees' on the site fall below the 75 millimetre (mm) diameter minimum set out in BS5837:2012 guidance with regard to such surveys and are, therefore, appropriately described as 'scrub'. I saw on my site visit that this scrub vegetation is extremely dense and largely impenetrable across much of the land, restricting any views into or out of the site. The vegetation is of limited height (around 6-7 metres (m) at maximum), given that this growth has taken place over a number of years, and mostly comprises thorn and willow with only a very small number of silver birch.
27. Due to the local topography the site is largely hidden from public view and has minimal visibility to drivers and passengers of vehicles on Sheffield Parkway (A630). Views from the Morrison's site are screened by the landscaping on the embankment to the car park and by the density of the vegetation within the appeal site itself. Only 4 houses within the Blue Man's Way estate have windows facing the site and, although some of these have living accommodation at first floor level, the site is visible only to a very small number of local residents. As accepted by Mr Heczko in his TPO report

- (CDA12) local views are limited by the dense vegetation and the site does not provide for any wider visual amenity.
28. Having regard to these considerations, and to the presence of other areas of better woodland nearby, I find that the site has minimal landscape or visual amenity value in its current state and condition. There is little dispute between the appellant's expert advisors and the Council's ecologist that the site is currently of low ecological and nature conservation value and that this low value is consistent with the absence of any active management of the land for these purposes.
29. Although there are 2 public rights of way (PROW) along the northern and southern boundaries I saw that these are impassable over most of their length. Some other paths follow 'desire lines' through the site with one of these providing a link from the Blue Man's Way estate to the edge of the Morrison's store car park. However, use of these routes is unauthorised and, as there is no right of public access for recreational use, the site cannot be said to have any current recreational value.
30. The existing paths are unsurfaced and amount to little more than muddy tracks through the dense vegetation. No views are available to either side of the paths and anyone using these would not be visible from outside of the site. My observations on the site visit support the conclusions of the appellant's landscape appraisal that the enclosed, unmanaged character of the site is unwelcoming and that the lack of natural surveillance would reduce the feelings of safety for anyone using these paths. I consider that these factors would be likely to discourage very many people from using these existing routes. No evidence has been submitted as to the current level of use but conditions on the ground do not suggest that these informal paths are heavily used.
31. Mr Peter and Mr Howarth supported the Council's concerns about the loss of the existing woodland and similar concerns were raised in Mr Cameron's written objection. However, the representations submitted suggest a very limited level of local concern about the loss of the vegetation or of the site as an area of urban green space, with such concerns having been raised in only a very small number of the objections to the application. Many of those who objected on traffic grounds stated that they did not object to the principle of the development and the MP's representation confirmed her understanding that her constituents were not opposed to the proposal in principle. The Parish Council made no objection in principle and raised no concerns about the effect on the trees or green space.
32. One objector was concerned that the pedestrian route from the residential estate to Morrison's should not be lost and suggested that other pedestrian routes should be improved. I note also that the Rotherham Local Access Forum neither objected to the application nor raised concerns that the development would adversely affect the ability of people to use the public rights of way or their enjoyment in doing so. Rather, the Forum saw the development as an opportunity to secure enhancements to Public Footpath No 2, including better surfacing and lighting, such as those which the appeal proposals would deliver.
33. The appeal proposal would result in only 40% of the site area being retained as green space but would lead to a substantial improvement in the value and usability of that retained land as urban green space. In combination with the long term management and maintenance that would be secured through the
-

UU the planned interventions would enable the development of mature broadleaved woodland of substantially greater landscape value and visual amenity than the existing scrub vegetation. This would provide a more inviting and much safer space for the occupiers of the proposed homes and other local residents to use for informal recreation.

34. The Council sought to characterise the proposals recommended in the appellant's Preliminary Ecological Appraisal as mitigation works. However, other than the new hedgerow proposed as compensation for any sections of hedge that might need to be removed and the timing of works to trees and hedges outside of the bird breeding season, that report did not identify any potential loss or damage requiring mitigation. Hence, the proposed intervention works and future management of the woodland, the wildflower meadow and other planting proposed, and the ecological enhancements proposed in section 5 of the Ecological Appraisal would all constitute works of enhancement rather than mitigation. Together, these works would provide for a considerable enhancement of the site's biodiversity value.
35. Although he described the existing vegetation as 'pioneer woodland' Mr Heczko accepted that, without managed intervention, it would take hundreds of years for this to develop into mature broadleaved woodland. He also stated that it would not achieve a high amenity value without such intervention. The Council's ecologist also agrees that management is a vital component in securing long term enhancement of the site's ecological value and biodiversity. It is possible that some small scale improvement in the site's amenity value may be achieved over a long period without any managed intervention. However, in view of the site's location adjacent to existing and proposed housing, securing an urban green space of high amenity and wildlife value which is both inviting and safe for local people to use is a much more appropriate aspiration than leaving the site in its current unmanaged state with no public access. Without intervention and long term management of the type that the appeal proposals would deliver that outcome is unlikely to be achieved.
36. The site forms part of an existing green infrastructure corridor along the route of the A630. This varies considerably in width and, even following completion of the proposed development, a continuous green corridor would remain alongside this route and the section adjoining the site would still be one of the widest sections of that corridor. Mr Grimshaw's figures (IG2) show that the Council's proposal to take land on the opposite side of the A630 out of the Green Belt and allocate it for employment development is likely to have a more significant impact on the width of the green corridor in this locality. The development guidelines for that proposed allocation (Site E36) do not record that site's contribution to the green corridor or identify this either as an issue or a constraint on the site's development.
37. I accept that the scrub vegetation on the appeal site is likely to contribute to carbon capture in an area with high volumes of traffic passing close to residential property. However, it is clear that the site does not serve as a visual or noise buffer between the A630 and the Blue Man's Way estate since the shortest distances between highway and the nearest dwellings are not across the appeal site (IG2 Figure 3).

38. In light of the above considerations I find that the appeal proposal would result in a significant enhancement of local urban green space provision and that, as there would be no conflict with clauses (iii) and (iv), the proposal complies with Policy ENV5.1.
39. Policy CS 19 is another of the strategic policies within chapter 5 of the Core Strategy. I consider that the policy's objective with regard to the realisation of a '*net gain*' in green infrastructure is intended to apply at a borough wide level and over the plan period as a whole. Nothing in the wording of the policy or its supporting text suggests that Policy CS 19 places an obligation on the appellant to demonstrate that the proposal would result in a net gain in the total quantum of green infrastructure.
40. The policy provides support for proposals that make an overall contribution to the green infrastructure network having regard to the principles set out in clauses (a) to (h). These are principles rather than detailed criteria that must all be satisfied. Paragraph 5.6.1, which explains that '*green infrastructure*' is the network of multi-functional spaces and other assets that support the natural and ecological processes integral to the health and quality of life of sustainable communities, provides the context within which these principles should be considered.
41. As the appellant argues, the words '*mitigation*' and '*compensation*' appear together within clause (b) and should be read within the holistic approach that a strategic policy requires. I do not accept the Council's contention that this clause requires that the development of part of an existing green space must be compensated for by the provision of an equivalent or larger area of new green space elsewhere.
42. For the reasons already set out the appeal proposal would result in a substantial enhancement of the 40% of the site area that would be retained as green space. That significant enhancement would, in my judgement, provide more than adequate compensation for the loss to built development of approximately 1.3 hectares of poor quality scrub with minimal visual amenity, landscape, ecological and recreational value. The proposal would support the principles set out in clause (c) of the policy by enabling investment that would increase the functionality of the retained land as a component of green infrastructure and would substantially enhance, rather than merely safeguard, its function as a recreational and wildlife resource.
43. In the absence of the appeal proposal it is highly unlikely that the interventions and long term management necessary to secure those enhancements could be achieved by any other means. Accordingly, the development of part of the site for housing can be concluded to be unavoidable in accordance with the principle set out under clause (b). Notwithstanding that '*loss*' of existing green space the proposal would make a positive overall contribution to the green infrastructure network and would comply with Policy CS 19.
44. The site is allocated as '*Greenspace*' in the submission draft SPLP. However, as Mr Rolinson's evidence demonstrates, it was proposed as an employment allocation in the earlier versions of the draft plan. The site was not included in the '*accessible green spaces*' assessed in the Green Spaces Strategy of 2010 (IG paragraph 2.61 and appendix in IG3) and I have seen no up-to-date evidence base to support the recent change in its proposed allocation on the basis of a local deficiency in green space or the site's specific value as green
-

space. In these circumstances, and in light of the objections made to the proposed allocation, very little weight can be given to the draft allocation or to the draft SPLP policies relating to that allocation.

Effect on protected trees

45. As a woodland order, the TPO gives protection to all trees within the site. The Court of Appeal in the Distinctive Properties case (Document 5) has clarified that, under the Town and Country Planning Act 1990 (1990 Act), a tree is to be regarded as such at all stages of its life, subject to the exclusion of a mere seed. The effect of the TPO is that no trees can be cut down, topped, lopped, or uprooted without the written consent of the local planning authority unless the proposed works fall within the exceptions set out in Regulation 14 of the Town and Country Planning (Tree Preservation) Regulations 2012 (Regulations). Regulation 14 (a) (vii) indicates that works necessary to implement a detailed planning permission fall within the scope of the exceptions but that works necessary for the implementation of an outline permission do not.
46. No application for felling or other works to the protected trees has been made to the local planning authority and no such works form part of the appeal. The Council submits that, in those circumstances the effect of Regulation 14 (a) (vii) is to disbar me from granting permission for the appeal proposal in 'bare outline' because this would establish the principle of built development which is incompatible with the presence of protected trees across the majority of the site. It also argues that a grant of outline permission would bind the Council's hands in respect of the determination of a future reserved matters application for the layout of the proposed dwellings. I do not accept either proposition.
47. Regulation 14 (a) (vii) provides for the continued protection of TPO trees following the grant of an outline permission so that decisions as to how many and which trees need to be removed can be made at the reserved matters stage when more information is available on the detailed design requirements. Such an approach is sensible to ensure that trees are not lost unnecessarily and that appropriate design modifications are considered in order to minimise the loss of trees which are agreed to be of greatest value. However, nothing in the Regulations or the relevant sections of the 1990 Act indicates that outline permission should not be granted on land which is the subject of a TPO.
48. Having regard to section 197 of the 1990 Act all existing trees on a potential development site are a material consideration irrespective of whether or not they are protected by means of a TPO. Because expediency is commonly a factor in a local planning authority's decision to make a TPO the presence of such an Order, particularly when it relates to a woodland group rather than to individual trees, is not of itself an indicator that all of the trees within the order are of a high quality. As Mr Popplewell sets out in his evidence, it is the amenity value of the trees rather than the presence of the TPO that should inform the assessment of the likely effect of the development proposals.
49. The standard tool for undertaking an objective assessment of the condition and value of trees is by means of an arboricultural survey carried out in accordance with BS5837:2012. The survey undertaken by Wardell Armstrong was carried out in accordance with that guidance. Wardell Armstrong found only 6 individual trees that should be separately classified and that the rest of the trees on the site comprised dense scrub of low amenity value. Those findings

have been independently endorsed by Mr Popplewell and supported by Mr Grimshaw in his evaluation of the site's landscape and visual amenity value. Although Mr Heczko takes a different view he does not claim to have undertaken his own BS5837:2012 survey of the trees.

50. My own observations are that, with the exception of the 6 trees separately identified in the survey, all the trees are of relatively consistent species mix, age, spacing and condition. Based on these observations I accept Mr Popplewell's evidence that there is no meaningful variation in the quality of the trees across the site, that the scrub has no particular arboricultural merit and that all scrub areas have similar future prospects. In particular, although some more recent regeneration has taken place following the clearance of a strip along the southern edge of the woodland, there is no significant distinction, in terms of the amenity value or quality of the trees, between that part of the site proposed for development and that which would be retained as green space.
51. In these circumstances I consider that I have sufficient information before me to conclude that the removal of substantial blocks of trees within the area proposed for built development would not result in unacceptable harm to the amenity value of the site and that the development of up to 64 dwellings at the density envisaged is acceptable in principle. Since no significant distinction, in terms of the amenity value and quality of the trees, can be drawn between the two parts of the site I also consider it appropriate that any outline permission should be tied by means of a condition to the Parameters Plan. Together with the obligations in the UU, this would help to ensure that the interventions necessary to secure the establishment of a more mixed and sustainable woodland on the retained land are secured.
52. A grant of outline permission on this basis would do no more than establish the principle of a development of up to 64 dwellings and would not tie the Council's hands with regard to a future reserved matters application for detailed layout. The draft conditions agreed by the parties include a requirement that the reserved matters application be accompanied by a detailed arboricultural impact assessment and method statement. That assessment may identify other trees worthy of retention and may result in a reserved matters approval for less than 64 dwellings. However, based on the evidence before me, I have no reason to conclude that a significant reduction in the number of units currently envisaged is likely.
53. Approval of the means of access as part of the appeal proposal would constitute a detailed consent for that element of the scheme. The land affected by those works is very small and has limited tree coverage compared to the rest of the site. The loss of trees in this area would be minimal and would have no material effect on the amenity value of the scrub or its future potential of the scrub to development into mature woodland.
54. I do not find that the proposal would give rise to any conflict with saved UDP policies ENV3.3 and ENV3.4. Policy ENV3.4 is a general statement of intent with regard to the promotion and enhancement of tree coverage and does not set out any policy tests in relation to development proposals. As the Regulations provide for the continued protection of the trees on the site until either consent for felling or a detailed planning permission which necessitates the removal of trees is granted the proposal does not conflict with Policy ENV3.3. with regard to the protection of trees.

55. I therefore find that the proposal would not have an unacceptable effect on the amenity value of the woodland area protected under the TPO and that no material harm would result from a grant of outline permission with all matters other than access reserved for subsequent approval.

Conclusions on the main issues

56. Having regard to all of the above considerations I find that the appeal proposal would cause no harm to the Council's approved spatial strategy and settlement hierarchy. I find that the proposal would secure a significant enhancement in the value of the 'retained land' as urban green space and would make a positive overall contribution to the green infrastructure corridor along the A630 route. I also find that the proposal would not have an unacceptable effect on the protected trees within the site. For these reasons I conclude that the proposal complies with Core Strategy Policies CS 1 and CS 19 and with saved UDP Policy ENV5.1.
57. Although I have considered the arguments put forward by the appellant I do not consider that any of these policies is so inconsistent with the policies in the Framework such that they should be given less than full weight having regard to the advice at paragraph 19. As I have found no conflict with any other relevant policies I conclude that the proposal complies with the development plan as a whole.

Other Considerations

58. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications and appeals be determined in accordance with the development plan unless material considerations indicate otherwise.
59. Although the Council has questioned some of the benefits claimed by the appellant it does not allege that any other harm would be caused by the development. I note the concerns raised by objectors with regard to the use of Blue Man's Way as the access to the development. However, I have no evidence that would lead me to set aside the conclusions of the Council's highways officer that this would provide a safe and satisfactory access subject to the traffic calming works at the site access and the proposal to introduce a 20 MPH speed limit on the estate roads. I am also satisfied that the concerns of local residents with regard to flood risk have been properly considered and that the proposed drainage strategy would provide for an acceptable form of development in this regard.
60. One objector has raised concerns with regard to Article 8 of the European Convention on Human Rights. On this matter I agree with the appellant's submissions that the right to respect for the private and family life of the objector and his home would not be breached by the development of privately owned land near to his home. In any event, even if the right under Article 8 were to be engaged in some way, the grant of planning permission pursuant to an appeal which has been considered at a Public Inquiry would represent a justifiable interference with that right, having regard to the second part of the article.
61. On this basis I find that there are no material considerations which would indicate a decision other than in accordance with the development plan. Having regard to the statement set out in the first bullet under the 'decision

making' heading of Paragraph 14 of the Framework the proposal constitutes sustainable development and should be approved without delay.

62. The parties agree that the Council is unable to demonstrate 5 year HLS and, in accordance with paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up to date. I find that Core Strategy Policy CS 1 is a 'relevant policy' having regard to the Court of Appeal judgment in Hopkins Homes (Document 14) since it is a policy which relates specifically to the provision and distribution of new housing in the local planning authority's area. I consider that Policy ENV5.1 should also be regarded as a relevant policy because it restricts the locations where new housing may be developed and it bears upon the principle of the site in question being developed for housing. However, I find that no conflict arises with those policies.
63. There is a difference of view between the parties as to the extent of the shortfall in housing supply. However, in light of my finding that the proposal is compliant with the development plan as a whole, it is not necessary for me to reach a judgement on that matter.

Conditions

64. As details of the appearance, landscaping, layout and scale of the development are reserved a condition is needed that requires the submission of these reserved matters for the approval of the local planning authority. Conditions are needed to tie the outline planning permission to the approved plans and to confirm the extent of works approved as part of the means of access and to require that these works be constructed in accordance with the approved details in the interests of highway safety. A condition requiring that the reserved matters applications should accord with the approved parameters plan is needed to ensure an appropriate balance between the area to be developed and the area to be retained as green space and that the detailed proposals follow the key principles set out in the planning application and appeal.
65. There is a requirement under development plan policy that the scheme should provide an element of affordable housing and a condition is therefore needed to require that detailed proposals for this provision should be submitted and approved as part of the reserved matters application(s). In order to ensure that the reserved matters applications are informed by an up-to-date and more detailed assessment of the existing vegetation on the site a condition is needed which requires that these be accompanied by a detailed arboricultural survey and method statement including protection measures for trees to be retained as part of the development
66. Conditions have been attached which set out the minimum requirements in relation to the landscaping reserved matters and landscape management details which are required in order to ensure a satisfactory standard of development and that key objectives with regard to the enhancement and use of the proposed areas of open space are secured. To ensure an appropriate standard of development conditions are also needed in relation to the requirements for replacement planting should parts of the landscaping scheme fail and for the continued protection of retained trees within the site for the first five years after the commencement of the development.

67. As full details were not submitted as part of the application or appeal, conditions requiring the submission of detailed surface and foul water drainage schemes are needed to ensure that the site is developed in a safe manner and without increasing the risk of flooding elsewhere. A condition is needed to require the submission of details of, and a programme for, the provision of a pedestrian route through the site to link the existing residential estate at Blue Man's Way to the Morrison's car park in order to ensure that the detailed proposals provide the enhanced pedestrian linkages that were set out in the application. In the interests of highway safety a condition has been attached requiring that the detailed plans submitted as part of the reserved matters demonstrate adequate off street parking.
68. A condition is needed to require the submission of a construction method statement in order to minimise the effects of the construction works on the operation of the highway network and on the living conditions of the occupiers of nearby residential properties. As no detailed site investigation has been carried out, a condition is also needed that requires an intrusive site investigation and risk assessment in the interests of the safety of construction workers and future occupiers of the proposed dwellings. Also because these details were not submitted with the outline application, a condition is needed requiring the submission and approval of all road sections and constructional details of the proposed estate roads. All three of these conditions need to be discharged prior to commencement of the development in order to ensure an acceptable standard of development and that all construction activity is carried out in a safe and acceptable manner and to minimise the risk of abortive works.
69. In order to secure the ecological enhancements proposed in the Ecological Compensation and Enhancement Plan a condition is needed that requires that these works be carried out prior to the occupation of the proposed dwellings. Conditions are needed in relation to the provision of appropriate sound attenuation measures to ensure a satisfactory residential environment within the proposed dwellings and garden areas.

Planning Obligations

70. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Regulations require that planning obligations should only be sought, and that weight be attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development proposed; and are fairly and reasonably related in scale and kind to the development.
71. Having regard to the evidence submitted and the CIL Compliance Statement provided by the Council (Document 33) I am satisfied that the proposed obligations with regard to educational contributions are required to ensure that there is adequate capacity in local schools for the number of children that would be likely to be accommodated by the proposed development. I am also satisfied that the travel plan contributions are necessary in order to increase awareness among future residents of the development of non-car modes of transport and to encourage their use of such options and that the proposed 20 MPH speed limit, which would be implemented by means of the TRO funded by the developer's contributions, is necessary in the interests of the safe use of the proposed estate roads.

72. For these reasons I find that the obligations comprised within the UU satisfy the tests set out in Regulation 122 and comply with paragraph 204 of the Framework. I have therefore afforded weight to them in reaching my decision.

Conclusions

73. For the reasons set out above and having regard to all matters raised I conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR

Schedule of conditions for Appeal Ref APP/P4415/W/16/3149298

- 1) Details of the appearance, landscaping, layout, and scale of the development hereby permitted (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 013168_P104 Rev A – Red Line Plan
 - 013168_P100 Rev D – Parameters Plan
 - IPD_12_251_103 Rev D – Means of Access Plan
- 5) The 'means of access' approved under this permission relates to the works shown on drawing number IPD-12-251-103 Rev D and does not include the details of internal estate roads within the site. The works must be carried out in accordance with the approved plans and be completed prior to the occupation of any dwellings approved as part of this permission.
- 6) Any reserved matters application shall be in general accordance with drawing number 013168 - P100 Rev D – Parameters Plan.
- 7) The reserved matters submitted in accordance with this permission shall include details of a scheme providing affordable housing as part of the development, to be submitted for the written approval of the local planning authority. The affordable housing shall be provided in accordance with the approved details and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework (March 2012) and shall be in accordance with the Council's Interim Planning Statement for Affordable Housing.

The scheme must include:

 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made;
 - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or payment of a commuted sum equivalent to a percentage (the level of which is to be agreed in writing by the local planning authority) of the open market value of the affordable housing units if it is proven that the developer is unable to sell the units to a Registered Provider of affordable housing;

- iv) the arrangements to ensure that (subject to appropriate terms and conditions) such provision is affordable for both first and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 8) Details for reserved matters approval must include a detailed tree survey and a detailed Arboricultural Impact Assessment and Arboricultural Method Statement in accordance with BS 5837 Trees in Relation to Design, Demolition and Construction. The submitted details shall include a detailed Tree Protection Plan and a tree survey schedule.
- 9) The detailed plans to be submitted in accordance with this outline permission shall include a detailed landscape scheme. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings:
 - i) The extent of the area to be retained as public open space and details of the proposed enhancements to it.
 - ii) The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove.
 - iii) The extent of any changes to existing ground levels, where these are proposed.
 - iv) Any constraints in the form of existing or proposed site services, or visibility requirements.
 - v) Areas of structural and ornamental planting that are to be carried out.
 - vi) The positions, design, materials and type of any boundary treatment to be erected (including boundaries between residential properties).
 - vii) A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
 - viii) A written specification for ground preparation and soft landscape works.
 - ix) The programme for implementation.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme and approved programme.
- 10) The landscaping details to be submitted in accordance with this outline permission shall include a detailed landscape management plan, including proposals for public accessibility, long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned domestic gardens.
- 11) Any plants or trees which within a period of 5 years from completion of planting fail to thrive, die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.
- 12) Up until 5 years after the commencement of development, no tree or hedge shall be cut down, uprooted or destroyed nor shall any tree or

hedge be pruned other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree or hedge is removed, uprooted or destroyed or dies, within this period another tree or hedge shall be planted in the immediate area and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

- 13) The detailed plans to be submitted under reserved matters must include details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development. The scheme shall include construction details and shall subsequently be implemented in accordance with the approved details before the development is brought into use, unless otherwise agreed in writing with the Local Planning Authority. The scheme to be submitted shall demonstrate:
 - i) The utilisation of holding sustainable drainage techniques (e.g. soakaways etc.);
 - ii) The limitation of surface water run-off to equivalent greenfield rates (i.e. maximum of 5 litres/second/Ha);
 - iii) The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations;
 - iv) responsibility for the future maintenance of drainage features including an appropriate Maintenance Plan.
 - v) Flood Route drawing showing the direction of surface water overland flows through the site and nearby existing development.
- 14) The detailed plans to be submitted in accordance with this outline permission shall include details of the proposed means of disposal of foul drainage, including details of any off-site work. The works shall be carried out in accordance with the approved details and shall be completed prior the occupation of any of the dwellings hereby permitted.
- 15) The detailed plans to be submitted in accordance with this outline permission shall include details of a pedestrian link between the application site boundary with the existing residential estate at Blue Man's Way and the Morrison's supermarket car park and a programme of works to implement the link within the application site boundary only. The works shall be carried out in accordance with the approved details and shall be completed prior the occupation of any of the dwellings hereby permitted.
- 16) The detailed plans to be submitted in accordance with this outline permission shall demonstrate that all future dwellings shall have curtilage car parking based on the Council's current car parking standards for new residential development.
- 17) Prior to the commencement of development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include:
 - i) details of the proposed access to the site for all vehicles associated with the development on the application site;

- ii) traffic management measures during the construction work;
- iii) the location of the site compound and staff parking;
- iv) measures to deal with dust;
- v) measures to deal with mud in the highway;
- vi) details of proposed hours of construction and for the making of deliveries to and collection of materials or waste from the site;

The approved measures shall be implemented throughout the construction period.

18) Prior to commencement of development:

- (i) An intrusive investigation and subsequent risk assessment must be undertaken by competent persons in accordance with 'Section 8: Conclusions and Recommendations, page 21 of the Wardell Armstrong Phase I Environmental Assessment Report' and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and Contaminated Land Science Reports (SR2 – 4).
- (ii) If significant contamination is identified at (i) a Remediation Method Statement shall be submitted to and approved by the local planning authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters, the site must not qualify as contaminated land under Part 2A of the Environment Protection Act 1990 in relation to the intended use of the land after remediation.
- (iii) The approved Remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.
- (iv) Following completion of any required remedial works a Verification Report should be forwarded to the local planning authority for review and comment. The verification report shall include details of the remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. It shall also include details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site. The site shall not be brought into use until such time as all verification data has been approved in writing by the local planning authority.
- (v) If subsoils or topsoils are to be imported to site for remedial works or garden/soft landscaping areas, these soils will need to be tested at a rate and frequency to be agreed in writing with the local planning authority to ensure they are free from contamination. The results of the testing shall be provided to the local planning authority in the form of a verification

report confirming that soils of sufficient quality and quantity have been placed.

- 19) Before the development is commenced road sections, constructional and drainage details shall be submitted to and approved in writing by the local planning authority, and the approved works shall be implemented prior to the occupation of any of the dwellings hereby permitted.
- 20) Prior to occupation of the relevant dwellings the ecological enhancement measures identified in the Wardell Armstrong Ecological Compensation and Enhancement Plan dated 27 November 2015 shall be implemented with longer term management completed following occupation.
- 21) No dwelling shall be occupied unless it has been constructed in accordance with a scheme submitted to and approved in writing by the local planning authority so as to ensure that the building envelope provides sound attenuation against external noise sources and achieve an internal noise level of no greater than:
 - 35dB LAeq 1hour indoors between 0700 and 2300 hours (applicable to noise sensitive rooms i.e. living rooms)
 - 30dB LAeq 15 minutes indoors between 2300 and 0700 hours (to protect bedrooms)
 - LAFMax indoors shall not exceed 45dB between 2300 and 0700 hours (to protect bedrooms)

All indoor levels shall be taken with windows open or with alternatively provided acoustic ventilation over and above "background" ventilation. This may be provided by ventilation which complies with the performance specification given in Schedule 6 of Schedule 1 of the Noise Insulation Regulations 1975.
- 22) No dwelling shall be occupied unless it has been constructed in accordance with a scheme submitted to and approved in writing by the local planning authority so as to ensure that the rear gardens achieve an external noise level of 55dB LAeq, 1hr between 10:00 and 15:00 hours, measured at a height of 1.5m above ground level in free-field conditions.

End of Schedule of Conditions

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Christiaan Zwart	of Counsel, instructed by Sumera Shabir, RMBC Planning Solicitor
------------------	--

He called:

Andrew West BSc MA MRTPI	Planning Officer
Helen Sleight BA MA MRTPI	Senior Planning Policy Officer
Christopher Heczko Dip Arb	Tree Services Manager

FOR THE APPELLANT:

Andrew Piatt	Gateley PLC
--------------	-------------

He called:

Ian Grimshaw BA MA MSc CMLI MRTPI	Director - The Environment Partnership Ltd
Tom Popplewell BSc	Principal Arboricultural Assistant - The Environment Partnership Ltd
David Rolinson BA MRTPI	Chairman (Planning) – Spawforths

INTERESTED PERSONS:

James Peter	Local resident
Nicolas Howarth	Local resident

PLANS SUBMITTED AT THE INQUIRY:

Drawing No 013168_P104 Rev A - Amended Red Line Plan

Drawing No 013168_P100 Rev D – Parameters Plan (scale plan)

DOCUMENTS SUBMITTED AT THE INQUIRY:

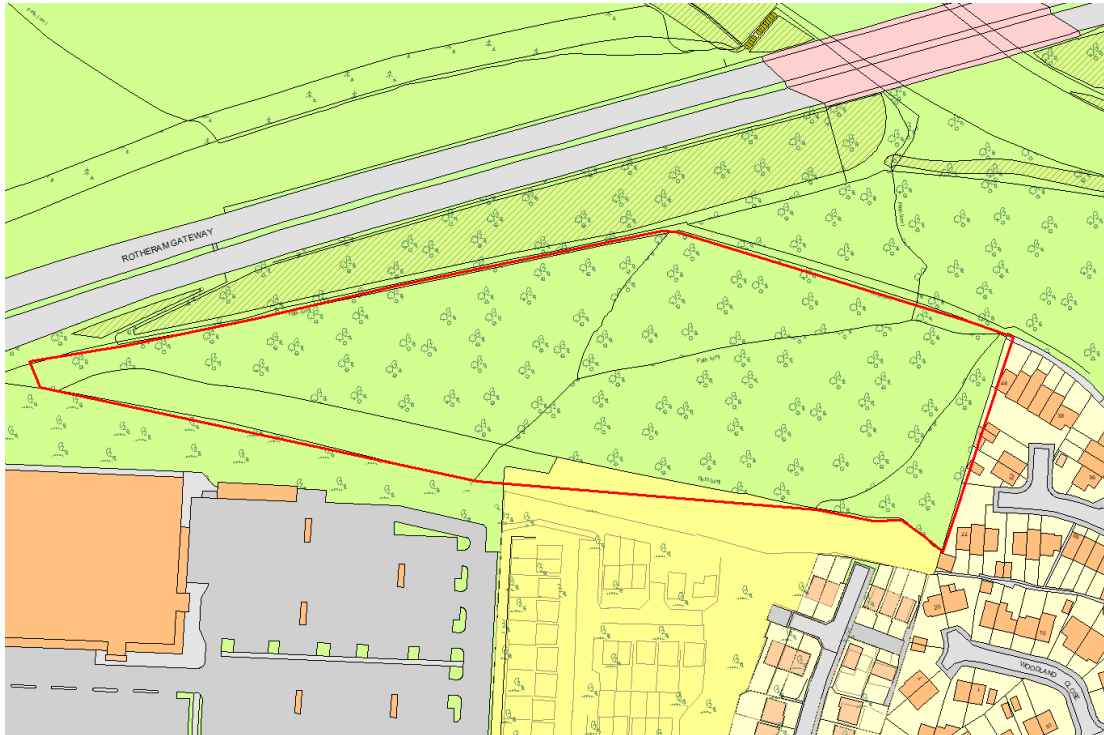
1. Letter dated 17 September 2007 from Government Office for Yorkshire and The Humber re Savings Direction
2. Certified Copy of Tree Preservation Order No 3 dated 15 March 2016
3. Town and Country Planning (Tree Preservation) Regulations 2012

4. Palm Developments Ltd v SoSCLG [2009] EWHC 220 (Admin)
5. Distinctive Properties (Ascott) Ltd v SoSCLG [2015] EWCA Civ 1250
6. R (on the application of Kides) v South Cambridgeshire DC [2011] EWHC Admin. 839
7. R v Warwickshire County Council ex Parte Powergen PLC Court of Appeal July 1997
8. Tesco Stores Limited v Dundee City Council (Scotland) [2012] UKSC 13
9. Anita Colman and SoSCLG and North Devon District Council and RWE NPower Renewables Limited [2013] EWHC 1138 (Admin)
10. R on the application of Wynn-Williams v SoSCLG [2014] EWHC 3374 (Admin)
11. Solihull Metropolitan Borough Council and (1) Gallagher Estates Limited and (2) Lioncourt Homes [2014] EWCA Civ 1610
12. Phides Estates (Overseas) Limited and SoSCLG and Shepway District Council and David Plumstead [2015] EWHC 827 (Admin)
13. Ivan Crane and SoSCLG and Harborough District Council [2015] EWHC 425 (Admin)
14. SoSCLG v Hopkins Homes Ltd [2016] EWCA Civ 168
15. Oadby and Wigston Borough Council and (1) SoSCLG and (2) Bloor Homes Ltd [2016] EWCA Civ 1040
16. Gladman Developments Limited and Daventry District Council and SoSCLG [2016] EWCA Civ 1146
17. Shropshire Council and (1) SoSCLG and (2) BDW Trading Limited [2016] EWHC 2733 (Admin)
18. East Staffordshire Borough Council and SoSCLG (1) and Barwood Strategic Land (2) [2016] EWHC 2973 (Admin)
19. R (on the application of Morge) v Hampshire County Council [2010] EWCA Civ 608
20. Cheshire East Borough Council and SoSCLG and Renew Land Developments Ltd [2016] EWHC 571 (Admin)
21. Written Statement of James and Gillian Peter
22. Signed Statement of Common Ground
23. Email (dated 6 December 2016) and Plan from Strata Homes Ltd re land required for site access

- 24. Written Statement of Tom Popplewell
- 25. Written Statement of Christopher Heczko
- 26. Helen Sleight written note re 5 year land supply position and Green Belt sites dated 7 December 2016
- 27. Examining Inspector's Report on the Rotherham Core Strategy (dated 30 June 2014)
- 28. Council's Opening Statement
- 29. Council's Closing Submissions
- 30. Appellant's Opening Statement
- 31. Appellant's Closing Submissions

Application Number	RB2021/0598 https://rotherham.planportal.co.uk/?id=RB2021/0598
Proposal and Location	Felling of trees protected by TPO No. 3 2016, land West of Blue Mans Way, Catcliffe
Recommendation	That consent be granted conditionally

This application is being presented to Planning Board due to the number of objections received.



Site Description & Location

The application site comprises a total of approximately 2.66 ha (6.56 acres) of land located off Blue Mans Way Catcliffe. The site is currently an area of informal greenspace, which contains semi mature trees. The site is bounded to the north/north-west by the Sheffield Parkway A630, and to the south is a Morrisons supermarket and a new Barratt Housing estate which is currently half complete.

To the east of the site are residential properties located off Blue Mans Way which currently form part of the western edge of Catcliffe whilst to the north east is a further area of open land, allocated for Green Space purposes.

The site contains many trees that are protected by TPO No. 3 2016, following a previous application to develop the site for housing.

Background

RB2014/1342 - Outline application for the erection of up to 64 dwellinghouses with details of access – REFUSED. Allowed at appeal 08/02/2017.

RB2017/1570 - Application to fell & prune various trees protected by RMBC Tree Preservation Order No. 3 2016 - GRANTED CONDITIONALLY

RB2021/0042 - Application to undertake works to a trees protected by RMBC Tree Preservation Order No.3, 2016 – REFUSED for the following reason:

01

The trees form a woodland that has been judged to provide significant amenity to the local area. The felling of the trees to carry out an archaeological survey will see a significant proportion of the amenity removed and not replaced. As a result, the works will not be in the interests of the trees' health or the local area's amenity.

RB2021/0037 – Erection of 76 dwellings and associated access and landscaping – undetermined

Proposal

The associated planning application for the erection of 76 dwellings (also on the agenda – RB2021/0037) will require the removal of substantial areas of trees protected by TPO No. 3 2016 and would be considered separately.

The current TPO application to fell a smaller, though still substantial, number of trees has been submitted to clearly establish the location of mining constraints on the site in the form of a 'high wall' that is a consequence of previous open cast coalmining on the site. This in turn will establish which properties require deeper 'pile' foundations, and would not affect the overall layout proposed on the site under the planning application. The developer would not sign the S106 agreement related to the planning application until the costs involved in foundation construction are more clearly established.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with the Sites and Policies Document which was adopted by the Council on the 27th June 2018.

The application site was allocated for Urban Greenspace purposes in the former Unitary Development Plan (UDP), however, the adopted Sites and Policies Document removed the site from the Urban Greenspace and allocates it for Residential Use (allocated site H100). For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policies:

CS20 'Biodiversity and Geodiversity'

CS21 'Landscape'

CS22 'Green Space'

Other Material Considerations

National Planning Practice Guidance (NPPG) (as revised)

National Planning Policy Framework: The revised NPPF came into effect in February 2019. It sets out the Government's planning policies for England and how these should be applied.

The Local Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

Publicity

The application was advertised by way neighbour notification letter and objections have been received from the occupiers of 8 local properties as well as from the Sheffield and Rotherham Wildlife Trust.

The local objectors state that the site provides a valuable green space to local residents and that it promotes wildlife and is home to a wide array of species such as many species of bird, badgers, foxes, hedgehogs, squirrels and bats and a wide selection of flowers, shrubs and trees. There is also extensive concern that the woodlands removal will exacerbate existing flooding and further put in danger the existing gardens and homes. The objectors also point out that the woodland will be helping with reducing air and noise pollution from the A630.

Sheffield and Rotherham Wildlife state that:

"We understand that due to its allocation, housing is likely to be granted on this site. However, we have had correspondence (including evidence) from immediate neighbours and a local naturalist who have highlighted a number of issues so we would like to make the following points:

1. The amenity value of the woodlands to the local residents.
2. The presence of hedgehogs.
3. The presence of a pond - this should be retained or replaced and subject to on-going management. The ecologist could not access all of the site, so it may have been missed.
4. There are plenty of birds present (recorded by the neighbours and there are presence of old nests) and the site has the potential to support Blackbird, Song Thrush, Long-tailed Tit, Blackcap, Garden Warbler, Carrion Crow, Magpie, Chaffinch, Greenfinch and Goldfinch. Therefore, there needs to be a planning condition of no woodland clearance in the bird breeding season should permission be granted.
5. Brooks Ecology have helpfully used UKHab in anticipation of a Biodiversity Net Gain assessment, but this application does not include the actual assessment. This is important given the proposed removal of woodland (even though it is young and in poor condition). We would like to see this to ensure a measurable no net loss of biodiversity in line with NPPF policies. If no net loss cannot be achieved on site, then woodland nearby or Catcliffe Flash.

6. If the development is granted, we would like to see the ecology report recommendations.
7. The woodland will be acting as a pollution buffer to the existing residents from the A630.
8. There are existing drainage issues at Catcliffe.
9. If granted, RMBC and the developer should do all they can to create a footpath to Morrisons to enable sustainable active travel.
10. If granted, will there be access to the remaining woodland strip to existing and new residents?
11. If granted, this woodland strip should remain dark with no street lighting illuminating it."

There are 2 Rights to Speak from local residents as well as one from the applicant.

Consultations

RMBC - Trees and Woodlands: No objections subject to condition.

Appraisal

The site consists of a young woodland that appears to have developed from scrub land to now contain a small mix of species including willow, hawthorn, birch, apple and some oak that in parts achieve heights of 8-10 metres. The site forms part of the green corridor along the Parkway. The site is also identified with the Council's Local Plan as an area suitable for residential development and has previously been granted planning permission for development in 2017. Indeed, in the appeal decision the Inspector noted that:

"Because expediency is commonly a factor in a local planning authority's decision to make a TPO the presence of such an Order, particularly when it relates to a woodland group rather than to individual trees, is not of itself an indicator that all of the trees within the order are of a high quality.

The standard tool for undertaking an objective assessment of the condition and value of trees is by means of an arboricultural survey carried out in accordance with BS5837:2012. The survey undertaken by Wardell Armstrong was carried out in accordance with that guidance. Wardell Armstrong found only 6 individual trees that should be separately classified and that the rest of the trees on the site comprised dense scrub of low amenity value.

My own observations are that, with the exception of the 6 trees separately identified in the survey, all the trees are of relatively consistent species mix, age, spacing and condition. Based on these observations I accept Mr Popplewell's evidence that there is no meaningful variation in the quality of the trees across the site, that the scrub has no particular arboricultural merit and that all scrub areas have similar future prospects. In particular, although some more recent regeneration has taken place following the clearance of a strip along the southern edge of the woodland, there is no significant distinction, in terms of the amenity value or quality of the trees, between that part of the site proposed for development and that which would be retained as green space.

In these circumstances I consider that I have sufficient information before me to conclude that the removal of substantial blocks of trees within the area proposed for built development would not result in unacceptable harm to the amenity value of the site and that the development of up to 64 dwellings at the density envisaged is acceptable in principle. Since no significant distinction, in terms of the amenity value and quality of the trees, can be drawn between the two parts of the site I also consider it appropriate that any outline permission should be tied by means of a condition to the Parameters Plan. Together with the obligations in the UU, this would help to ensure that the interventions necessary to secure the establishment of a more mixed and sustainable woodland on the retained land are secured.”

The Inspector concluded that the proposal would not have an unacceptable effect on the amenity value of the woodland area protected under the TPO.

The works will see approximately one third of the existing woodland removed to aid exploratory works to locate the former mine’s high wall so that suitability for development can be ascertained.

Such an application is unusual as requests to remove protected trees in order to investigate the possibility of development would normally be refused, as the tree(s) would be permanently lost without gaining the potential ‘benefits’ provided by the new development. However, this site has already been confirmed as suitable for development, and in effect the trees have already been assessed as suitable for removal (at least in part) as a result of that appraisal. Indeed, if the related planning application is approved then all of the trees that would be removed under the TPO application, to allow for the exploratory works to take place, would need to be removed as part of the planning application.

The applicants have indicated that if the planning application is not granted then the TPO application works would not be implemented, and that if Members indicate that they are disposed to grant the planning application, and this TPO application is also approved, they would carry out the works accordingly. They have also confirmed that should the development for the housing, if approved, not subsequently take place (whilst this is unlikely), they would replant any trees as necessary, and a condition is recommended that would require this to take place so that the woodland can recover from the extensive works as quickly as possible.

In terms of the objections raised by local residents and the Sheffield and Rotherham Wildlife Trust, these will have been addressed as part of the planning application which as noted above proposes more trees to be felled overall, and is being considered beforehand on this agenda.

Conclusion

In view of the above, it is recommended that should Members be disposed to grant planning permission for the related planning application, then the TPO application be granted, subject to a condition relating to replacement planting.

Conditions:

01

If the redevelopment of the site does not commence within 18 months of the date of this permission, replacement tree planting will be carried out in line with a scheme to be submitted to and approved by the Local Planning Authority. The scheme will:

- Be prepared to a minimum scale of 1:200.
- Detail what ground preparation is required to provide a suitable growing environment following the highwall exploratory works.
- Detail the extent of the area to be planted.
- A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
- The programme for implementation.

Reason:

To ensure the interests of protecting the visual amenity of the area, contributing to the quality and character of Rotherham's environment, air quality and adapting to and mitigating climate change in accordance with Rotherham's Core Strategy Policies CS3: Location of New Development, CS19: Green Infrastructure, CS20 Biodiversity and Geodiversity, Policy CS21 Landscape, Policy CS28 Sustainable Design.

Informatives

01

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.

Furthermore, vegetation removal should be undertaken outside of the bird breeding season, March to September inclusive. If any clearance work is to be carried out within this period, a nest search by a suitably qualified ecologist should be undertaken immediately preceding the works. If any active nests are present, work which may cause destruction of nests or, disturbance to the resident birds must cease until the young have fledged.