

Proof of Evidence: Planning

In Respect of Section 78 Appeal: Land north of Hemingfield Road, Hemingfield, Barnsley.

Outline planning application for demolition of existing structures and erection of residential dwellings with associated infrastructure and open space. All matters reserved apart from access into the site.

On behalf of Hargreaves Land Limited, G N Wright, M M Wood, M J Wood and J D Wood

Date: May 2025 | Pegasus Ref: P23-1714PL

LPA Ref: 2024/0122

Appeal Ref: APP/R4408/W/25/3359917

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1. Introduction

- 1.1. This Proof of Evidence has been prepared on behalf of Hargreaves Land Limited, George Newton Wright, Margaret Mary Wood, Marcus James Wood and Jonathan David Wood ("the Appellant") and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990, concerning land north of Hemingfield Road, Hemingfield, Barnsley (ref: APP/R4408/W/25/3359917).
- 1.2. Hargreaves Land Limited (a wholly owned subsidiary of Hargreaves Services Plc, a diversified listed company headquartered in the North East of England) is a leading multisector strategic land promoter, master developer, and regeneration specialist with a proven track record of delivery. The business is focused on delivering high-quality development schemes which support economic growth for future generations and creating places where people want to live, work, and play.
- 1.3. The appeal follows the decision of Barnsley Metropolitan Borough Council ("the LPA" and "the Council") to refuse an application for outline planning permission (LPA ref: 2024/0122) ("the planning application") for development described as follows:

"Outline planning application for demolition of existing structures and erection of residential dwellings with associated infrastructure and open space. All matters reserved apart from access into the site." ("the Proposed Development").

Witness Background and Particulars

- 1.4. My name is Gary Robert Lees. I hold a Bachelor of Arts Degree with Honours in Urban and Regional Planning, together with a Diploma in Town Planning, both from Lanchester Polytechnic. I am a member of the Royal Town Planning Institute and a Director of GRL Planning Ltd. GRL Planning Ltd was formed in July 2024 following my retirement as Chairman of Pegasus Group. I am retained as a consultant for Pegasus Group on various projects.
- 1.5. I have over 30 years' experience working in a variety of planning roles in Local Government and planning consultancies. I joined Pegasus Group in 2004 and have over those years advised a range of clients in relation to the promotion of land through the development plan process and the submission of planning applications. I have appeared at development plan examination hearings and planning appeal inquiries as a witness, including in relation to housing need and supply matters.
- 1.6. The evidence I have prepared and provide to this Inquiry on behalf of Hargreaves Land Ltd is true and given in accordance with the code of conduct of the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions.

Scope of Evidence

- 1.7. My Proof of Evidence relates principally to matters of planning policy and the overall planning balance in respect of the appeal proposal. I also seek to address concerns raised by third parties.
- 1.8. At **Appendix 1** is the Parameter Plan drg no 2344.PP.01.Rev A. [CD 3.37A]



- 1.9. **Appendix 2** is a statement produced by Kevin Tilford, Managing Director of Weetwoods, responding to third party concerns in relation to drainage and flood risk
- 1.10. **Appendix 3** is an Economic Infographic produced by Pegasus Group
- 1.11. **Appendix 4** is a note on Wider Safeguarded Land Delivery Considerations that includes a Wider Safeguarded Land Illustrative Concept Plan
- 1.12. Three further Proofs of Evidence are provided under separate cover with regard to:
 - Housing Land Supply and Affordable Housing Delivery prepared by Mr Matthew Good of Pegasus Group
 - Transportation Matters prepared by Stuart Wilkins of Bryan G Hall
 - Education Matters prepared by Ben Hunter of EFM Ltd.
- 1.13. I refer in this Proof of Evidence to documents that are listed in the agreed Core Documents list, using the abbreviations stylised '[CD X.XX]'.

2. Context and Background

- 2.1. The Context and Background of the Appeal Scheme and the Site is covered within the Statement of Common Ground (SoCG **CD 1.11**) between the Appellant and the Local Planning Authority, as well as the Appellant's Statement of Case (SoC **CD 1.2**) within sections 2 to 4. I understand the SoCG to be in an agreed form at the time of writing, but is presently unsigned. As such I set out anticipated key elements below which I wish to draw to the attention of the Inspector and expect to be agreed.

Appeal Site and its Surroundings

- 2.2. The Appeal site comprises 6.78 hectares of land to the north east of Hemingfield Road and north of Briery Meadows. The proposed development is set entirely within the development limits of the settlement of Hemingfield, which itself forms part of the wider Hoyland Principal Town. Principal Towns along with Urban Barnsley are identified in the Spatial Strategy section of the Barnsley Local Plan (BLP **CD5.1A**) as being *'the main local focus for housing, employment, shopping, leisure, education, health and cultural activities and facilities, and their roles as accessible and vibrant places to live should be enhanced'*¹. The BLP goes on to state that *'We want Hoyland to grow in housing and employment terms taking advantage of its accessible location and utilising strategic transport links'*.²
- 2.3. The site is located within a sustainable settlement which is in the second tier of the settlement hierarchy. The LPA has confirmed in the SoCG that it is considered to be suitable for housing in principle³. In the Officer's Report to Committee [**CD 2.1**] it states that the *'application [site] is in a sustainable area'* and the Council's Highway's Department consultation response [**CD 4.19A**] confirms that there is *'a proliferation of sustainable transport routes within and adjacent to the site'*⁴.
- 2.4. Hemingfield has a range of accessible local services and facilities within easy walking distance of the site entrance, including, but not limited to, The Ellis Church of England Primary School and a local convenience store.
- 2.5. The Public Right of Way network in and around the Appeal Site provides direct pedestrian access to The Ellis Church of England Primary School on Garden Grove. The section of PRoW between the site and Garden Grove is lit and provides a safe and suitable route which is to be retained and enhanced as part of the development proposals.
- 2.6. Bus stops with regular services to Barnsley, Wombwell, Hoyland and Cortonwood Retail Park are close to the site entrance, with the appeal proposals delivering a relocated stop along with two bus shelters and real time information on services. In addition, Wombwell Train Station is within a 12 minute walk of the site, utilising a short underpass under the Dearne Valley Parkway, providing twice per hour train services to Barnsley (7 minute journey), Sheffield (24 minute journey) and Leeds (1 hour journey).

¹ BLP paragraph 5.16

² BLP paragraph 5.45

³ SoCG paragraph 4.2

⁴ Further details are provided in the SoCG and the Appellants SoC (paragraphs 2.8 to 2.10)



- 2.7. The site features agricultural buildings which (as stated in the LPA's Officer's Report) are in a general state of disrepair and are proposed to be demolished to facilitate the proposed development. The site comprises two fields that are transected by an existing track and two Public Rights of Way.
- 2.8. The site forms the western portion of a larger piece of land (extending to a total of 18.2ha) which is designated as Safeguarded Land by the LPA (site ref: SL6), under Policy GB6 of the Local Plan.
- 2.9. The site is located entirely within Flood Zone 1 and is at a low risk of flooding from all sources⁵. The site is not subject to any local or national designations for ecology, landscape, or heritage⁶.

Appeal Proposals

- 2.10. The Appellant seeks outline planning permission for the demolition of existing structures and the erection of residential dwellings with associated infrastructure and open spaces, with all matters reserved apart from access into the site insofar as shown on the Proposed Access Arrangement drg no 23/160/SKH/OO7 [CD 3.40]. It is proposed that in the region of 165-180 dwellings would be delivered on the appeal site should the appeal be allowed.
- 2.11. A schedule of plans and documents can be found at Appendix 1 of the Statement of Common Ground (**CD 1.11**), which contains the plans and documents the Appellant requests that the Appeal is determined against.
- 2.12. A number of supporting Technical Reports were submitted with the Statement of Case (**CD 1.2**), the conclusions of which confirm that there are no technical impediments to the satisfactory delivery of the appeal proposals, subject to appropriate conditions and planning obligations.

Consideration of the Application

- 2.13. The Appellant has sought to work collaboratively with the Council both prior to and during the determination process. This collaborative approach by the Appellant has been maintained following the submission of this appeal.

Pre-submission

- 2.14. Prior to the submission of the application a request for pre-application advice was made to the Council in a submission made on 6 November 2023.
- 2.15. The pre-application submission was validated (reference: **2023\ENQ\00437**) on 23 November 2023.

⁵ SoCG paragraph 4.3

⁶ SoCG paragraph 4.4



- 2.16. An initial pre-application meeting was held with BMBC planning officers on 5 December 2023. A further meeting was held with the Council's highways department officers on 13 December 2023. No written advice or opinion of the LPA was issued.

Public Consultation

- 2.17. On 20 December 2023 a consultation leaflet was distributed within the local community. The leaflet provided details of the proposed development and invited the local community and other interested parties to a public consultation event which was held on 11 January 2024. The event was held at The Ellis Church of England Primary School which is an easily accessible venue located close to the site.
- 2.18. A meeting was held with ward councillors on 10 January 2024 to discuss the proposals and to explain how the proposals would be presented to the local community at the public exhibition.
- 2.19. Following the public exhibition, members of the public were invited to send comments regarding the proposals to the design team for a period of two weeks between 11th and 25th January 2024. Full details of the public consultation process can be found in the Statement of Community Involvement [CD 3.24].

Submission

- 2.20. The outline application was submitted to Barnsley Metropolitan Borough Council and validated on 9 February 2024. The statutory consultation attracted 48 public comments, as confirmed by the Officer's Report. The main themes arising from these comments are summarised and considered with Section 6 of my evidence.
- 2.21. During the course of the application determination, further information and amended plans were submitted. Meetings and correspondence during the processing of the application considered the issue of the remaining safeguarded land, with the only request for further information relating to the operation of the proposed new access being able to accommodate traffic from the wider site. No further requests were made from the LPA to test the deliverability of the remainder of the safeguarded land in any other respect, nor were any technical reasons for refusal raised in respect of the wider safeguarded land. The requested capacity testing of the wider site was duly undertaken and found to be acceptable. A Stage 1 Road Safety Audit was also undertaken to demonstrate the proposed junction is able to operate safely.
- 2.22. In addition, minor amendments were made to the illustrative masterplan [CD 3.36B], the illustrative landscape masterplan [CD 3.35B] and the parameters plan [CD 3.37B].

Determination

- 2.23. The application was refused by Officers on 11 December 2024, with the following reasons for refusal cited in the Decision Notice:

1. The application site forms part of site SL6, Land North East of Hemingfield and is allocated as Safeguarded Land within the Local Plan. The site is not allocated for development at the present time and planning permission for the permanent development of safeguarded land should only be granted following an update to a plan



which proposes the development. The proposal is therefore contrary to the NPPF and Local Plan Policy GB6.

2. In the opinion of the Local Planning Authority, the proposal would constitute piecemeal development. The site forms part of a wider safeguarded site SL6, Land North East of Hemingfield, therefore the development this site would have a potential impact on the comprehensive development of the wider site, contrary to policy GD1 of the Local Plan.

Statement of Common Ground

- 2.24. A draft Statement of Common Ground ("SoCG") was submitted with the appeal on 31st Jan 2025. Draft SoCGs are also being finalised in respect of Housing Land Supply and Highways.
- 2.25. A final, signed, version of the Main SoCG is yet to be agreed between the Appellant and the Council at the time of writing, but I anticipated that the following key issues will be agreed:
- The site description, context and background to the appeal.
 - The proposed development description.
 - The planning history of the site.
 - The relevant development plan policies.
 - The Housing Delivery Test indicates that the delivery of housing was 84% of the housing requirement over the previous three years.
 - The LPA is unable to identify a sufficient supply of available sites and that the 'tilted balance' as set out in the Framework's presumption in favour of sustainable development at paragraph 11(d)(ii) is engaged.
 - The most important development plan policies, BLP Policies GB6 and GD1, are out of date.
 - Paragraph 39 is clear that decision-makers at every level should seek to approve applications for sustainable development where possible. It is agreed that the appeal site is sufficiently accessible and suitable for housing in principle.
 - The Council's position is that there is a housing land supply of 3.1 years and the Appellant's position is that this is 2.02 years.
 - which the Appellant says is a significant shortfall and therefore very significant weight should be applied in favour of applications that can contribute to increasing this supply. The appellant's position is that the housing land supply is 1.97 years.
 - It is agreed that there has been a significant shortfall in past completions of both market and affordable housing from the base date of the Local Plan. There is also an inadequate supply of affordable housing to meet needs

- The site is suitable in principle for residential development, at the appropriate time and was removed from the Green Belt to provide a potential residential development resource.
- It is agreed that, subject to meeting the terms of GD1 (second and third paragraphs), the appeal site is also suitable for residential development at the appropriate time.

2.26. The agreed development benefits are:

- Moderate positive weight to the provision of 10% affordable housing to a policy compliant mix and tenure split, which would be provided in the context of a very significant affordable housing need.
- Moderate positive weight to on-site provision of biodiversity net gains in excess of 10%.
- Moderate positive weight to new accessible on-site public open space and landscape planting.
- Moderate positive weight to the economic benefits from construction, job creation, and local economic investment

2.27. Development benefits where weight is not agreed:

- Positive weight to the provision of housing; the Council considers substantial weight and the Appellant very substantial weight
- Positive weight to the provision of on-site affordable housing; the Council considers that moderate weight and the Appellant significant weight

2.28. Matters not agreed:

- The weight to be given to conflict with Policy GB6 by proposing residential development on Safeguarded Land.
- Whether the proposals conflict with the second and third components of Policy GD1 in potentially impacting on the comprehensive development of the wider site.
- The need for financial contributions towards education provision.

The Main Issues

2.29. Following the Case Management Conference on 15th April 2025, the Inspector's amended notes provide commentary on the main issues in this case, which is as follows:

1. The five-year housing land supply position
2. Whether the development would be contrary to local and national policies in relation to safeguarded land and if so the weight to be given to such conflict



3. Whether the development would prejudice 'comprehensive' delivery on the wider site

2.30. The evidence of Mr Good deals with the five-year housing land supply position (Main Issue 1) in addition to affordable housing needs and my evidence will seek to address:

- The extent to which the most important policies for determining the appeal proposal are out of date and the weight to be applied to these policies having regard to the development, the NPPF and case law.
- Other material considerations, including housing delivery failure
- Main Issues 2 & 3
- Consideration of third-party representations
- S106 and Conditions
- The planning balance in accordance with paragraph 11(d) of the NPPF to weigh the benefits and disbenefits of the scheme.

3. The Development Plan and National Policy

- 3.1. This section sets out the approach to decision making where the LPA cannot demonstrate a five year supply of deliverable housing sites, as is agreed in this case.
- 3.2. Section 70(2) of the TCPA 1990 states that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations.
- 3.3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) states that, if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise. Taking these two sections together, a decision-maker must, therefore, consider the development plan, identify any provisions within it which are relevant, and then properly interpret them.
- 3.4. The National Planning Policy Framework (“NPPF”) does not purport to change the statutory framework or displace the primacy of the development plan; rather, it is a material consideration for the purposes of sections 70(2) of the TCPA 1990 and section 38(6) of the PCPA 2004. The NPPF represents up-to-date government policy⁷ and is, therefore, an important material consideration that must be taken into account where it is relevant to a planning application/appeal.
- 3.5. At the heart of the NPPF is a presumption in favour of sustainable development, where Paragraph 11 sets out the policy for decision making. Paragraphs 11(c) and 11(d) set out how this should be done, with 11(d) referred to as the ‘tilted balance’. Before turning to the development plan, it is useful to note some key aspects of relevant judgments on the approach to be taken.
- 3.6. The policy presumption in favour of sustainable development is promulgated between paragraphs 11 and 14 of the NPPF. Holgate J provided a detailed analysis of the presumption and the circumstances in which it is engaged (see, *Monkhill Ltd v SSHCLG*⁸) [CD 7.8]. This analysis was accepted by the Court of Appeal⁹ [CD 7.9].
- 3.7. Insofar as relevant, where a case does not fall within paragraph 11(c), as is the case here, the next step is to consider whether paragraph 11(d) applies. This requires examining whether the most important development plan policies for determining the application are out-of-date.

Footnote 8 Qualifications

- 3.8. As regards paragraph 11(d), Footnote 8 confirms that the most important policies for determining housing applications are out-of-date housing where:

⁷ Planning Practice Guidance, Paragraph 006 Reference ID: 21b-006-20190315

⁸ [2019] EWHC 1993 (Admin).

⁹ [2021] EWCA Civ 74.

- a) The local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 78); or
- b) Where the Housing Delivery Test indicates that the delivery of housing was below (less than 75% of) the housing requirement over the previous three years.

3.9. Footnote 8 qualifications are not contingent on one another; to render the most important policies as being out-of-date, the satisfaction of one will suffice.

3.10. As regards criterion (a), the Council cannot demonstrate a five-year supply of deliverable housing land, 3.1 years at best on the Council's own analysis. Footnote 8 qualification is therefore satisfied.

3.11. The most important policies can also be deemed out-of-date in other circumstances, as has been clarified by the courts. Mr Justice Lindblom was referring to paragraph 14 of the 2012 NPPF when at paragraph 45 of his judgment in the case of *Bloor Homes East Midlands Ltd v SSCLG & Anor* [CD 7.10] he held that:

"If the plan does have relevant policies these may have been overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason, so that they are now "out-of-date."

In *Peel Investments (North) Ltd v SSCLG & Anor* [CD 7.11], Lord Justice Barker found that this analysis plainly applies to the revised terms of the presumption in favour of sustainable development in paragraph 11(d) of the NPPF. Indeed, he went on to find that:

"If the policies which are most important for determining the planning application have been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date, the decision makers must apply the tilted balance expressed in the presumption in favour of sustainable development."¹⁰

3.12. As a consequence of the BLP failing to deliver the housing it said it would when it was adopted back in 2019, this is a change in circumstance since the plan was adopted and further renders policies that restrict the supply of housing out of date. The lack of any housing delivery action plan (as required by the Council in only achieving 84% of its Housing Delivery Test¹¹ (HDT) requirement) along with no prospect of an updated local plan any time soon, only serve to compound the out of date status of Policy GB6 in particular; a policy that specifically restricts the supply of housing. This aspect is explained in more detail at paragraphs 5.6 – 5.15 below.

3.13. If paragraph 11(d) does apply, as is the case here, then the next question is whether one or more Footnote 7 policies are relevant to the determination of the application or appeal (limb (i)). Footnote 7 policies are those that protect areas or assets of particular importance. In the present case, it is agreed that no Footnote 7 policies apply.

¹⁰ [*Peel Investments (North) Ltd v SSCLG & Anor* [2020] EWCA Civ 1175 at [66].

¹¹ NPPF paragraph 79a)

3.14. This then takes us to limb ii), engaging the tilted balance. This means:

- The most important policies are deemed out of date; and
- That the decision taker should be disposed to grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits

3.15. The Council now agree that the tilted balance is engaged in relation to this proposal¹².

3.16. The relationship between NPPF paragraph 11 and the statutory provisions for the decision maker is helpfully set out in *Gladman Developments Ltd v SSHCLG*¹³, [CD 7.12] Sir Keith Lindblom held that:

"In paragraph 11 [of the NPPF] two main currents running through the NPPF converge: the Government's commitment to the "plan-led" system and its support for "sustainable development [...] the provisions on "decision-taking" in the second part of paragraph 11 set out a policy to guide decision-makers on the performance of their statutory responsibilities under section 70(2) of the 1990 Act and section 38(6) of the 2004 Act, in the specific circumstances to which they relate."¹⁴

3.17. The tilted balance is therefore a highly material consideration. If decision takers choose not to follow the Framework, where it is a material consideration, clear and convincing reasons for doing so are needed.

The Most Important Policies

3.18. The BLP policies relevant to the Appeal proposals are agreed in the draft SoCG . The most important policies for determining application are also agreed in the SoCG; those being Policy GD1: General Development and Policy GB6: Safeguarded Land.

3.19. Policy GD1: General Development identifies that proposals for development will be approved if they conform with various criteria, including residential amenity, not significantly prejudicing the current or future use of neighbouring land and not adversely affecting the potential development of adjacent land. This policy is addressed in detail within section 5 of my evidence.

3.20. Policy GB6: Safeguarded Land identifies that the development of sites designated as safeguarded land will only be permitted following a review of the Local Plan.

3.21. As directed by NPPF paragraph 11 and as a consequence of BLP continually failing to deliver sufficient housing to meet its requirements since the plan was adopted¹⁵, the most important policies are out-of-date and should be attributed reduced weight as a consequence, as should any conflict with such policies.

¹² LPA Statement of Case, paragraph 6.3 [CD 9.2]

¹³ [2021] EWCA Civ 104.

¹⁴ Ibid [48-49].

¹⁵ See Table 4.1 below



- 3.22. There is dispute between the main parties on the scheme's accordance with Policy GD1; my view is that the scheme fully accords with Policy GD1. There is no dispute that the scheme is in conflict with Policy GB6, it is the weight to be applied to this policy conflict that is in dispute. I deal with these aspects in Section 5 below in addressing the Main Issues.
- 3.23. It is important at this point to note that the committee report, in recommending that the application be refused planning permission [CD 2.1], did not identify that the most important policies for determining this application were out of date and appears to have erroneously applied full weight to Policy GB6 in particular. Whilst the Council's Statement of Case (CD 9.2) now accepts the tilted balance should be applied¹⁶, it continues to erroneously accord full weight to Policy GB6 and makes no reference to the out-of-date status of this policy¹⁷. This is a significant oversight on behalf of the LPA as it does not then apply the tilted balance as is prescribed by the NPPF, giving erroneous weight to now out-of-date Policy GB6.
- 3.24. The Council's case only alleges conflict with the two most important policies. In the Council's Statement of Case and in the SoCG, there is no alleged conflict with any other relevant development plan policy. Whilst Policies GD1 and GB6 are considered the most important, all relevant policies, along with the strategic direction and evolution of the BLP, are important material considerations and I seek to deal with those aspects below.

Barnsley Local Plan

- 3.25. The BLP was adopted on 3 January 2019 following extensive consultation dating back to 2012. The BLP was reviewed by the Council in 2022. The review concluded that an update to the plan was not required. This position was confirmed by the Council on 24 November 2022. Whilst not unlawful, I consider the review process, including the evidence used and the quality of analysis undertaken, to be poor and material to this appeal, for the reasons set out at paragraphs 3.44 – 3.53 below.
- 3.26. The Barnsley Local Plan establishes a Settlement Hierarchy for the Borough to direct growth to the most sustainable locations. This is set out in paragraph 5.9, whereby the Plan states that *"in order to create sustainable communities, the Local Plan identifies where development should be focused and where it should be limited."*
- 3.27. The table below shows the hierarchy and the towns or villages that fall within each bracket:

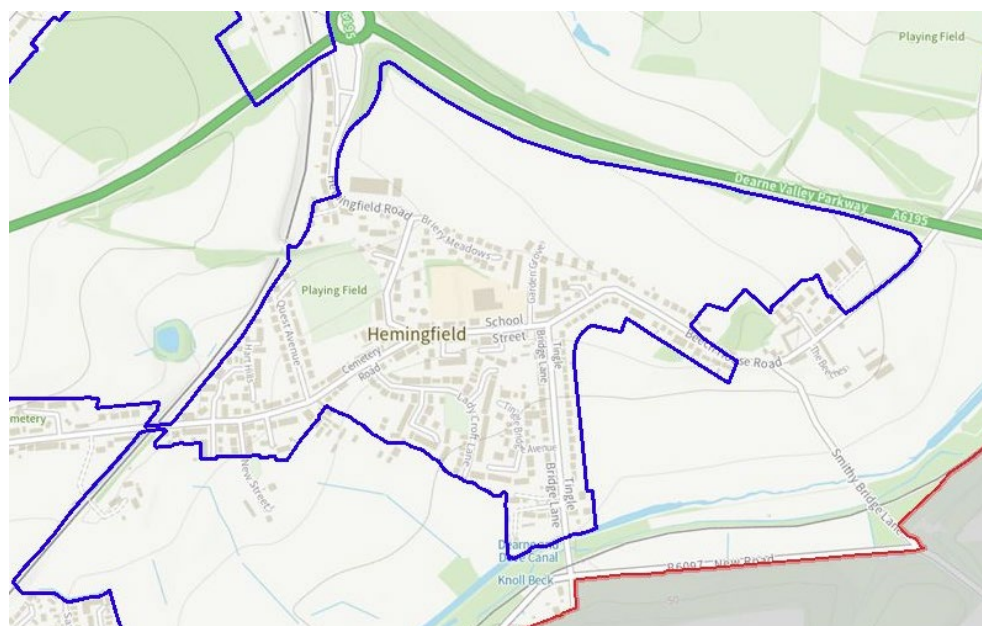
¹⁶ Paragraph 6.3

¹⁷ Paragraph 6.8

Classification	Settlements
Sub Regional Town	Urban Barnsley (including Darton, Dodworth, Monk Bretton, Carlton, Athersley South, Athersley North, New Lodge, Mapplewell, Staincross, Kexborough, Gilroyd, Barugh Green, Higham, Pogmoor, Gawber, Worsbrough Common, Worsbrough Dale, Worsbrough, Ardsley, Wilthorpe, Hoyle Mill, Kendray, Stairfoot, Ward Green, Lundwood)
Principal Towns	Cudworth (including Grimethorpe and Shafton), Wombwell (including Darfield), Hoyland (including Birdwell, Blacker Hill, Elsecar, Hemingfield and Jump), Goldthorpe (Dearne Towns, including Thurnscoe and Bolton on Dearne), Penistone (including Cubley and Springvale), Royston
Villages	Billingley, Brierley, Broomhill, Carlecotes, Cawthorne, Crane Moor, Crow Edge, Great Houghton, Green Moor, High Hoyland, Hood Green, Howbrook, Hoylandswaine, Huthwaite, Ingbirchworth, Langsett, Little Houghton, Middlecliff, Millhouse Green, Pilley, Oxspring, Silkstone, Silkstone Common, Swaithe, Tankersley (including lower Pilley), Townhead, Thurlstone, Thurgoland, Weetshaw Lane (near Cudworth), Woolley Colliery Village, Worsbrough Village, and Wortley

Table 3.1: Barnsley Local Plan Settlement Hierarchy

- 3.28. As Table 3.1 shows, Hemingfield is classed as part of Hoyland, which is defined as a Principal Town. The 'Vision' of the Barnsley Local Plan is that the principal towns will, alongside Urban Barnsley, be a focus for growth¹⁸.
- 3.29. The appeal site was released from the Green Belt and designated as Safeguarded Land as part of the BLP, as a consequence it is now located within the identified development limits of Hoyland (as shown in Figure 3.1 below).



¹⁸ BLP paragraph 5.16

Figure 3.1: Hoyland Settlement Limits (source: extract from Barnsley Council Local Plan Map)

- 3.30. Paragraph 5.45 of the Local Plan outlines the Council's ambition for the Principal Town of Hoyland (which includes Hemingfield) and states:
- "We want Hoyland [incorporating Hemingfield] to grow in housing and employment terms taking advantage of its accessible location and utilising strategic transport links."***
- 3.31. Policy H1: The Number of New Homes to be Built sets out a plan requirement of 21,456 net additional dwellings during the period 2014 to 2033. Supporting paragraph 9.1 of the plan identifies that this gives an indicative annualised figure of 1,134 per annum. This evidence supporting the housing requirement is set out within the Barnsley Metropolitan Borough Council 2014 Strategic Housing Market Assessment Update (2014 SHMA, **CD 5.5A**) The requirement evolved from a baseline requirement of 880 dwellings per annum as identified by the 2014-based sub-national household projections (paragraph 47, **CD 5.1B**). This baseline was adjusted to 1,134 dwellings per annum in recognition of the need to address market and affordable housing needs and to support the economic growth ambitions to be delivered by the plan. This positive approach was understandably found to be sound by the examining Inspector of the Local Plan (paragraph 59, **CD 5.1B**). Policy H1 is an important policy for the determination of this appeal; it was positively prepared to meet economic growth aspiration in excess of baseline needs; it is therefore considered to remain in conformity with the NPPF having regard to paragraph 69. I therefore give Policy H1 full weight.
- 3.32. Policy E2: The Distribution of New Employment Sites also demonstrates the importance of Hoyland (including Hemingfield) as a key growth location in the borough by distributing 37% of the allocated employment land to the Principal Town of Hoyland, which is more than any other Principal Town and indeed more than Urban Barnsley itself. This reflects the important role that Hoyland has in contributing towards the Borough's housing and economic growth aspirations and its position as a highly sustainable place to which to direct growth. To achieve sustainable patterns of growth and to encourage commuting to work by non-car modes, I consider it important to co-locate the new homes close to these new employment areas, making the delivery of new homes in Hoyland particularly advantageous in that respect.
- 3.33. Policy LG2: The Location of Growth identifies that priority will be given to development in Urban Barnsley and the Principal Towns. The supporting text (paragraph 7.2) further notes that individual Principal Towns will be the main local focus for housing, employment, shopping, leisure, education, health and cultural activities and facilities. They are identified by BMBC as being the main local focus for new housing along with Urban Barnsley.
- 3.34. In line with the Council's stated position in the Local Plan that they '*want Hoyland to grow*', Policy H2: The Distribution of New Homes distributes 12% of the total housing requirement within the plan period, equating to 2,567 dwellings, to the Principal Town of Hoyland. This is more than any other Principal Town, save for Dearne. Policy LG2 is an important policy for the determination of this appeal; there is nothing to suggest that that the BLP spatial strategy is out-of-date and I thus attribute full weight to this policy.
- 3.35. With the above definition and role of a Principal Town in mind, the proposed development is considered to be in conformity with the Local Plan Vision and Spatial Strategy. It is located

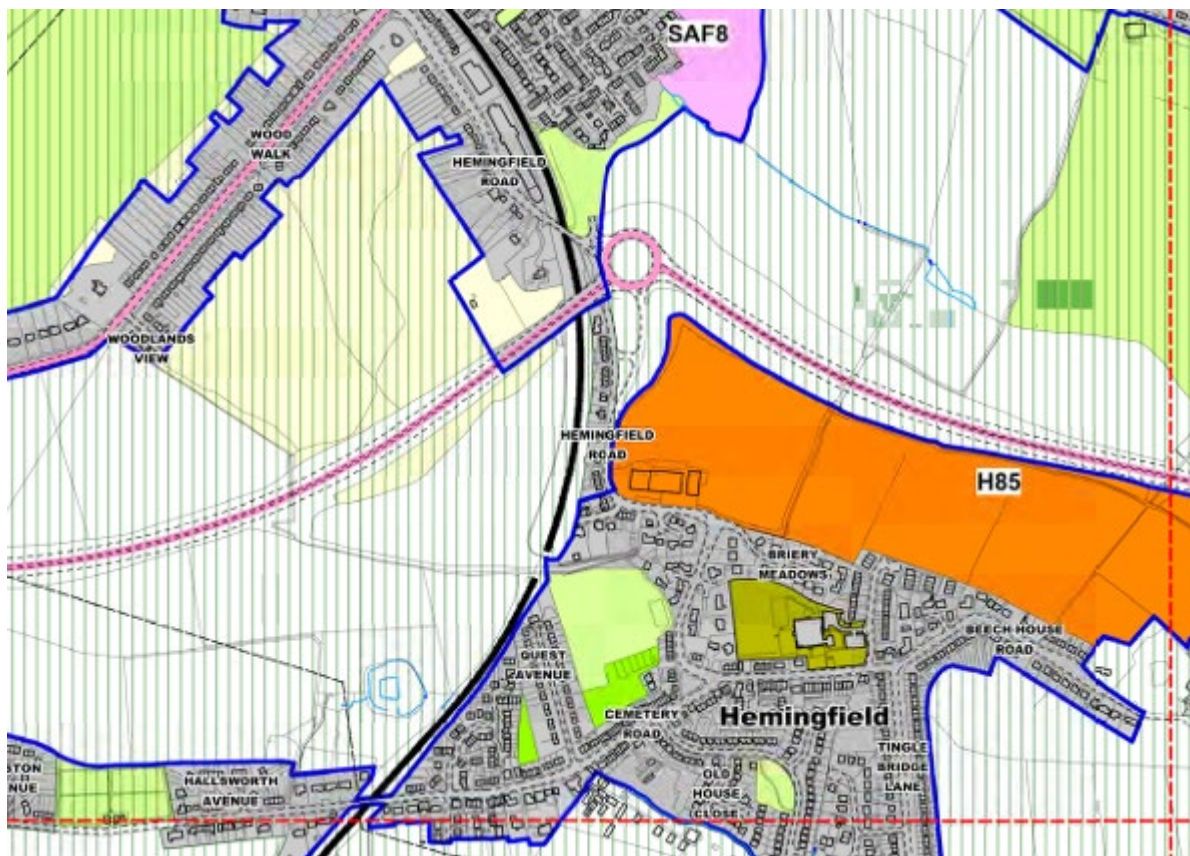


within the settlement limits. It will contribute significantly towards meeting the local need for market and affordable housing and will provide an accessible and vibrant place to live within Hemingfield as part of the Principal Town of Hoyland.

Designation of the Appeal Site

- 3.36. The Appeal Site is designated as Safeguarded Land within the Barnsley Local Plan under reference SL6. This designation was made following an assessment of a wider parcel of former Green Belt through the Barnsley Metropolitan Borough Council Green Belt Review, 20 July 2014 [CD 5.8]. This identified the site as being part of a larger general area of former Green Belt identified as WOM5. The review concluded at Section 7.4 as follows: *"Having received an overall score of 15 out of 25, it is evident that Green Belt in WOM5 is not considered to be strongly fulfilling the purposes of the Green Belt"*. A refined land parcel WOM5a was considered to *"offer a new defensible boundary to the Green Belt..."*.
- 3.37. Based on the assessment of whether the existing Green Belt was fulfilling the purposes as set out in the NPPF, and the analysis of site-based constraints, the Green Belt assessment identified a resultant land parcel from WOM5 that could be put forward for consideration in the Housing Sites Selection Methodology and the Employment Sites Selection Methodology to inform the BLP.
- 3.38. This resultant parcel was WOM5a is now identified as the safeguarded land designation SL6.
- 3.39. In removing the site from the Green Belt, the Council acknowledged that it performed poorly when considered against the five purposes of Green Belt. It also did not identify any technical constraints to development. The Inspector's Report on the Examination of the Barnsley Local Plan [CD 5.1B] agreed that *"WOM5a...is located to the south of the A6195 Dearne Valley Parkway which would provide a strong and durable boundary to maintain the separation between Hemingfield and Wombwell. Having regard to my conclusions in Issue 4, exceptional circumstances exist to remove the site from the Green Belt for additional safeguarded land"* (paragraph 238).
- 3.40. However, it is material to note that in the 2014 Local Plan Consultation Draft of the Barnsley Local Plan, that immediately followed the Green Belt Review, the appeal site was included as a proposed housing allocation H85: Land North East of Hemingfield [CD 5.10¹⁹]. This site was identified as being preferable to others due to its location within the settlement hierarchy.

¹⁹ See Inset Map 55 on page 67



Extract from Barnsley Local Plan 2014 Consultation Draft Policies Map

- 3.41. The Council therefore clearly consider the site to be sustainably located for housing development and in conformity with the Council's development strategy; no deliverability issues identified which would prevent it from coming forward within the plan period.
- 3.42. As the Council has removed the previous consultation draft versions of the BLP from their website, I do not know the reasons why the appeal site and adjacent land was subsequently identified as Safeguarded Land in the submission version of the BLP.

Policy Compliance

- 3.43. Aside from Policies GD1 and GB6, in relation to which there is dispute or discussion elsewhere in the proof, this section summarises how the proposed development complies with all the other relevant development plan policies.

Local Plan Policy	Actions taken by Appellant during application process	Comments from LPA / statutory consultees
Policy BIO1: Biodiversity and Geodiversity.	An Ecological Appraisal (CD 3.8), Baseline Habitat Plan (CD 3.31) and Biodiversity Metric (CD 3.7) were prepared by Baker Consultants in support of the planning application.	No objections to the scheme were raised on the grounds of ecology as per the final consultation response from the BMBC Ecologist (CD 4.11), and the LPA has accepted the

	<p>The planning application was supported by a full and comprehensive suite of ecological surveys, that are up to date.</p>	<p>submitted Biodiversity Net Gain Metric (CD 3.7).</p> <p>The scheme will provide a Biodiversity Net Gain greater than the statutory 10% requirement, despite the application being validated prior to the statutory 10% BNG requirement becoming legally binding.</p>
<p>Policy T3: New Development and Sustainable Travel;</p> <p>Policy T4: New Development and Transport Safety;</p> <p>Sustainable Travel SPD.</p>	<p>A Transport Assessment (CD 3.25), Travel Plan (CD 3.26), Transport Assessment addendum (Highways Technical Note) (CD 3.27), Road Safety Audit (CD 3.28) and access drawings (CD 3.40) were prepared by Bryan G Hall Ltd in support of the planning application.</p> <p>During the process of the application, a number of Highways-related documents were prepared and discussed at length between the Applicant, their appointed consultant (Bryan G Hall Ltd) and the Highways authority.</p>	<p>The Transport Statement, Travel Plan, the Transport Statement addendum (Highways Technical Note), Road Safety Audit and access drawings were all acceptable and in accordance with Policy T3 by the Highways Authority, as confirmed within their final consultation response (CD 4.19B). Stuart Wilkin's proof of evidence also identifies how the scheme complies with Policies T3 & T4.</p> <p>A contribution will be made to support sustainable travel in line with the LPA's SPD.</p>
<p>Policy D1: High Quality Design and Place Making;</p> <p>Policy LC1: Landscape Character.</p>	<p>The planning application was supported by a Landscape Masterplan (CD 3.35B) prepared by Pegasus Group to demonstrate the proposals being landscape-led. The masterplan was updated to reflect the amended Parameters Plan (CD 3.37B) and Illustrative Masterplan (CD 3.36B) towards the end of the determination period, and the application was determined based on these plans.</p>	<p>The Officer's Report states, due to the nature of the proposals and the urbanised context in which they sit, any short term effects on the surrounding landscape would be limited and restricted in extent.</p> <p>As per the Officer's Report, it is agreed that any impact upon visual amenity can be mitigated through the detailed design and landscaping which would be agreed at Reserved Matters stage.</p>
Policy CC3: Flood Risk;	A Flood Risk and Drainage Assessment (CD 3.14) was	As per the Officer's Report, the site is set within Flood Zone 1,



<p>Policy CC4: Sustainable Drainage Systems (SUDS);</p> <p>Policy CC5: Water Resource Management.</p>	<p>prepared by Weetwood to support the planning application.</p> <p>The site is of low risk of flooding from all sources. It is agreed that suitably worded conditions to control drainage matters will be applied.</p> <p>The Appellant has engaged in discussion with Yorkshire Water to establish the capacity for foul drainage, and reached the conclusion that Yorkshire Water's assets would be able to support the proposed development.</p>	<p>which has a low probability of flooding.</p> <p>The Drainage officer raised no objection subject to conditions (CD 4.3), and Yorkshire Water also raised no objection subject to conditions (CD 4.7).</p>
<p>Policy HE1: The Historic Environment;</p> <p>Policy HE2: Heritage Statements and General Application Procedures;</p> <p>Policy HE6: Archaeology.</p>	<p>An Archaeology and Heritage Desk Based Assessment (CD 3.4) was prepared by MAP Archaeological Practice in support of the planning application.</p> <p>The parties agree that the work undertaken to identify and assess the significance of archaeological remains at the site was carried out in adherence with the agreed Written Scheme of Investigation (CD 3.6), which had been agreed with the Council and SYAS. As such, a scheme of archaeological work comprising a strip, map and record is required as mitigation and the required work would be secured by condition.</p>	<p>The Officer's report states, the site is not set within a Conservation Area, nor does the site contribute any significance to the nearby Lundhill Farm Mews listed buildings.</p> <p>In terms of archaeology SYAS were consulted and recommended that intrusive investigations were undertaken prior to determination. A geophysical survey and subsequent trial trenching investigation have been undertaken in consultation with SYAS and a condition is proposed in respect of post determination works to secure a targeted strip, map and record (CD 4.2).</p>
<p>Policy POLL1: Pollution Control and Protection.</p>	<p>An Air Quality Assessment (CD 3.2) was prepared by Redmore Environmental Ltd. to support the planning application, along with a Noise Impact Assessment (CD 3.22) prepared</p>	<p>The Officer's Report identifies that the LPA's Pollution Control officer raised no objection to the proposed development (CD 4.6), subject to conditions.</p> <p>South Yorkshire Mining Advisory Service recommend that</p>

	<p>by Environmental Noise Solutions Ltd.</p> <p>Furthermore, a Geoenvironmental Preliminary Appraisal Report incorporating Coal Mining Risk Assessment and Contaminated Land Assessment (CD 3.11) was prepared by Sirius Group to support the application.</p>	<p>permission be granted subject to a standard condition (CD 4.14)</p>
Policy D1: High Quality Design and Place Making.	<p>The Applicant prepared a number of plans to illustrate the principles underpinning the site layout. A Site Location Plan (CD 3.29), Wider Site Location Plan (CD 3.30), Illustrative Masterplan (CD 3.36) and Parameters Plan (CD 3.37) were submitted in support of the application.</p> <p>A Design and Access Statement (CD 3.13) was also prepared by the Applicant in support of the planning application, which further expanded on the design principles at Outline stage.</p>	<p>It is acknowledged within the Officer's Report (CD 2.1) that the Urban Design officer's consultation response (CD 4.11) indicated no objection to the proposal but made observations for any future reserved matters application.</p> <p>The Urban Design officer strongly supported the proposal to 'create a landscape led public realm' as stated in the submitted Design and Access Statement (CD 3.13).</p> <p>Reserved Matters submissions shall be required to be in broad accordance with the illustrative masterplan.</p>
Policy GS2: Green Ways and Public Rights of Way.	<p>While the main entrance to The Ellis Church of England is typically accessed from School Street and Garden Grove, a public right of way (PROW) within the site provides a direct walking route connecting to the north of Garden Grove.</p> <p>This section between the site and Garden Gove is lit and provides a safe and suitable route which is to be retained and enhanced as part of the development proposals.</p>	<p>Public Footpaths Wombwell 17 and 18 are partly within the red line boundary.</p> <p>As per the Officer's Report, it is agreed that the footpaths should remain open as often as possible during construction, however, a temporary closure order will also be required during any period when either of the public footpaths are closed for safety reasons during construction.</p>

	A walking catchment plan was included within the Transport Assessment that was prepared for the original application.	
Policy H6: Housing Mix and Efficient Use of Land; Policy H7: Affordable Housing.	The quantum of affordable housing delivery on the site will be policy compliant, with the exact number and mix and tenure of dwellings to be determined at the Reserved Matters stage in accordance with the affordable housing provisions as set out in the S106 agreement.	

Table 4.4: Details of Proposed Development's conformity with Local Plan Policies

Local Plan Review

- 3.44. The Barnsley Local Plan was reviewed by the Council on 24 November 2022 [CD 5.3A] where it was agreed to recommend to Full Council *"to retain the Local Plan in its current form until a further review is undertaken prior to the end of 2027"*. The review process was an internal exercise undertaken by Council officers using existing evidence (such as annual monitoring data) and the Planning Advisory Service (PAS) Toolkit as a checklist.
- 3.45. Planning Officer Society (POS) Enterprises were appointed as a critical friend to advise on the Local Plan Review (CD 5.3C), using the PAS toolkit as a basis for their advice [CD 5.3B]. The POS Enterprises response did not seek to verify the Council's response to the PAS Toolkit, rather it is stated that the critical friend *'has not sought to verify each answer but worked on the assumption that the answers given are well founded in the evidence'* (paragraph 4.2).
- 3.46. No consultation was undertaken as part of the review. Despite the lack of consultation, the Appellant is aware that submissions were made by Johnson Mowat, a planning consultancy which acts of behalf of developers and promoters in the borough of Barnsley, on behalf of several developers relating to the robustness of the Council's evidence in relation to five-year housing land supply in the review process (CD 1.10, SoC Appendix 11).
- 3.47. It is important to note that Paragraph 32 of the NPPF requires the *"preparation and review of all policies to be underpinned by relevant and up-to-date evidence"*. The key issue I find with the review relates to the evidence on housing delivery and housing land supply. In terms of delivery, on 1st April 2022 the Council had under-delivered by 2,656 dwellings against its housing requirement, nearly 30% below the identified housing need up to this date. The decision not to update the BLP is even more surprising given that the BLP Vision and Objectives state:
- "Enabling the delivery of at least 21,546 homes that provide housing for all, including affordable housing, and maintaining at least a rolling 5 year deliverable supply of new housing"*
- 3.48. Given the BLP was failing to deliver its required housing this should have triggered an update to the plan or at least the publication of an action plan or interim policy statement.
- 3.49. In terms of supply whilst a Five-Year Deliverable Housing Land Supply Report was produced to support the Local Plan Review, this was published in December 2021, nearly a year prior



to the point that the decision was taken by the Council that an update to the plan is not required (November 2022).

- 3.50. Furthermore, the base date for the five-year supply assessment was 1 April 2021, 17 months prior to the review. Given the fluid nature of housing land supply this is not considered to be up to date evidence. At the time that the Council reviewed the plan, the NPPF allowed for an authority to fix its five-year housing land supply position through the production of an Annual Position Statement (Paragraph 75, NPPF 2021) which would be examined by a Planning Inspector. The Council did not seek to have their position tested and independently verified. No further additional evidence was produced by the Council to inform the review.
- 3.51. Not only was the evidence out-of-date as part of this review, it was also overly optimistic in terms of the deliverability of the purported supply. The evidence of Mr Good is that the Council was only able to demonstrate a FYHLS of 2.9 years at 1 April 2021.²⁰
- 3.52. It is due to these clear failings in delivery and supply of housing that I consider the Local Plan Review was inadequate and should have led to an update to the plan to increase housing supply. This should naturally have led to the consideration of safeguarded land sites.
- 3.53. Notwithstanding the lack of an update to the BLP to date, from the evidence of Mr Good it is clear that the Council has been aware of a lack of FYHLS at least since it presented evidence to the Carlton appeal in July 2024 in acknowledging 3.6 years supply at that time [CD 7.1B Box 1 on page 12]. In light of the Report to Cabinet of 2 November 2022 when it was decided not to update the BLP [CD 5.3A] stating at paragraph 2,8 *"Should at any point it be considered that the Local Plan is not delivering the housing, rather than updating the plan it may be more effective to intervene in other ways. This reflects the situation where a local planning authority which is not meeting the Housing Delivery Test is required to prepare an action plan, with a view to bringing forward actions which will assist improvement of the supply"*, at the very least an action plan should have been put in place.
- 3.54. No such action plan presently exists, although the Council's SoC does suggest one is now being prepared [CD 9.2]. Despite requesting sight of this document, I have yet to see it.
- 3.55. Such an action plan should of course already be in place and that should include consideration of all the levers available to the Council to advance the supply of deliverable housing land, top of the list being bringing forward Safeguarded Land sooner than anticipated in the plan when it was adopted. This has been a proposed action from other Councils in a similar situation, including Leeds City Council and Kirklees Council. The latter produced an 'Interim Housing Position Statement to Boost Supply' in October 2023 [CD 10.6]. This helpfully sets out the context and rationale for the production of the Statement, accepting that in Kirklees there was only 3.96 years HLS (paragraph 3.1), that the tilted balance is engaged (paragraph 3.3) and that there is a presumption in favour of sustainable development (paragraph 3.5).

²⁰ Mr Good FYHLS Proof of Evidence paragraph 2.6

- 3.56. Section 4 of the Kirklees Statement sets out the Principles of Decision Making, with Principle 1 being the presumption in favour of sustainable development. Principle 2 is Safeguarded Land with the following policy approach adopted:

Principle 2 – Safeguarded Land

Substantial weight will be given to the presumption in favour of sustainable development for housing development on land identified as safeguarded land in the Kirklees Local Plan, where constraints to development can be overcome.

Planning permission will be expected to be granted if proposals constitute sustainable development and accord with other relevant policies set out in:

- the National Planning Policy Framework
- the Kirklees Development Plan
- Kirklees Supplementary Planning Documents and other planning guidance.

The council will continue to consider planning applications on their individual merits.

It will be expected that proposals on safeguarded land are capable of being brought forward and built out in a timely manner.

- 3.57. The Kirklees supporting text at paragraph 4.6 states: “As the Local Plan safeguarded land policy (LP6) relates to the supply of land for development, including for housing, **this policy is considered to be out of date**. As such, these sites provide potential development opportunities that could be facilitated through their early release for housing where development constraints can be overcome” (my emphasis).

- 3.58. It is a clear and obvious action to seek to bring forward Safeguarded Land, where available, for housing where the plan is failing, as is the case in Barnsley, as such land has already been assessed with regard to its suitability for housing and removed from the Green Belt.

- 3.59. At the time of writing, it is also acknowledged that no further update to the Local Plan has been commissioned, nor have BMBC committed to the preparation of a new Local Plan. In the absence of an emerging plan, any potential concerns regarding prematurity are completely unfounded. The NPPF is clear at paragraph 50 that to qualify as a potential issue of prematurity there needs to be both an advanced stage emerging plan **and** a development so substantial or significant that issues central to that emerging plan would be predetermined:

‘arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and



b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

- 3.60. Paragraph 50 goes on to state that 'Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination'.
- 3.61. There is no draft plan emerging and so fundamentally there is nothing that could be prejudiced or undermined. The situation in Barnsley could not be said to meet the circumstances where prematurity could begin to be considered. In addition, the scale of development proposed at around 165 to 180 dwellings would not undermine the plan making process on a matter that is central to any future plan even if preparation of it had got to an advanced stage. I therefore conclude that there can be no valid concerns as to prematurity.

4. Housing Delivery Failure

4.1. Since coming into Office, the emphasis on housing delivery by the present Government has changed, with the Government driving forward reforms including the publication of the revised NPPF to boost the delivery of new housing. The Government have identified a need for 1.5 million new homes in this parliament.

4.2. A few days after the Labour Party's (8th July 2024) win at the General Election, the new Chancellor of Exchequer, Rachel Reeves MP, delivered her first speech [CD 10.7] in post, setting out the actions that the new Government intends to take.

4.3. In this speech, Reeves reaffirmed the new Government's ambitions to carry out planning reforms and build 1.5 million homes in England over the course of the parliament. She set out her view that:

"Nowhere is decisive reform needed more urgently than in the case of our planning system [...] Planning reform has become a byword for political timidity in the face of vested interests and a graveyard of economic ambition".

4.4. Reeves concluded by setting out her view that:

"Any development may have environmental consequences, place pressure on services and rouse voices of local opposition, but we will not succumb to a status quo which responds to the existence of trade-offs by always saying no".

4.5. The State Opening of Parliament took place on 17th July 2024 and as is traditional, HM The King delivered a speech [CD 10.8] which sets out the present Government's legislative agenda for the forthcoming Parliamentary session. Early in the speech, the King introduces the Government's intention to accelerate housing delivery through a new Planning and Infrastructure Bill, stating that:

"My Ministers will get Britain building, including through planning reform, as they seek to accelerate the delivery of high quality infrastructure and housing" (my emphasis).

4.6. On 30th July 2024, The Housing Minister Matthew Pennycook wrote [CD 10.9] to industry stakeholders about the government's plan to build the homes the country needs. He confirmed:

"We cannot meet our housing needs without identifying enough land through local plans. We are therefore reversing last year's changes which loosened the requirement for local authorities to plan for and meet their housing needs and mandating that the standard method is used as the basis for determining local authorities' housing requirements in all circumstances."

"In keeping with the scale of our ambition, we are going further and revising the existing standard method, raising the overall level of these targets from around 300,000 to approximately 370,000

"Given the scale of the housing crisis, we must allow development to come forward where local plans lag behind local needs, but we are clear that this cannot mean lower standards."

- 4.7. On 30th July 2024, the office of the Right Honourable Angela Rayner MP, Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government, released a written statement entitled "Building the Homes we Need" [CD 10.10].
- 4.8. The statement confirms that:
- "We are in the middle of the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home. That is why today I have set out reforms to fix the foundations of our housing and planning system – taking the tough choices needed to improve affordability, turbocharge growth and build the 1.5 million homes we have committed to deliver over the next five years".*
- 4.9. It continues:
- "We are therefore updating the standard method and raising the overall level of these targets – from around 300,000 to approximately 370,000".*
- 4.10. The Prime Minister Sir Kier Starmer MP in his 5th December 2024 speech 'Plan for Change' [CD 10.11] he set out that the delivery of 1.5 million homes is a key measurement of the success of the Government:
- "Today, we publish new milestones... Measurable milestones... That will also give the British people the power to hold our feet to the fire."*
- "Britain rebuilt with 1.5 million new homes... So the security I enjoyed when I was growing up... The 'base camp aspiration' of home ownership... Does not move further and further away from working-class families like mine."*
- 4.11. Alongside the publication of the NPPF on 12th December 2024, the Prime Minister Sir Kier Starmer MP and Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government Angela Rayner MP issued a statement [CD 10.12] confirming that:
- "Today's changes tackle the dire inheritance faced by the government, in which 1.3 million households are on social housing waiting lists and a record number of households – including 160,000 children – are living in temporary accommodation".*
- 4.12. In her letter about the government's plan to build the homes the country needs to local authority leaders, mayors and chief executives of local authorities titled 'Building the homes we need' [CD 10.1] published 7th January 2025. The Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government Angela Rayner MP stated the importance of planning consents in the short term outside of local plan allocations and confirming the weight the presumption in favour of sustainable development should have:
- "Rapidly driving up planning consents in the context of a system with woefully inadequate local plan coverage will increase the number of permissions secured outside of local plan allocations in the short-term. This is necessary if we are to see the scale of delivery we need to meet our commitment to 1.5 million homes. Therefore, where it applies, the presumption in favour of sustainable development must have real teeth."*
- 4.13. In the Government's announcement on 12th February 2025 [CD 10.13] 'Thousands to benefit from the security of a safe home' in relation to an announcement of £350 million invested to



increase number of affordable and social homes, The Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government Angela Rayner MP stated the importance of social housing and how it contributes to the Government's 1.5 million delivery of new homes target:

"For so many families, and their children, the security and safety of a home of their own remains firmly out of reach – and instead they have to live in temporary accommodation, including in B&Bs."

"This is unacceptable and is the result of the housing crisis we are facing head on. That's why we're driving forward on our plans to ensure a better future for everyone who needs a safe home, building on our plans to drive up living standards and build 1.5 million homes through our Plan for Change."

- 4.14. In a press relates titled "Biggest building boom' in a generation through planning reforms" [CD 10.14] which coincided with the reading of the Planning and Infrastructure Bill. Deputy Prime Minister and Secretary of State for Housing, Angela Rayner said on 11th March 2025:

"We're creating the biggest building boom in a generation – as a major step forward in getting Britain building again and unleashing economic growth in every corner of the country, by lifting the bureaucratic burden which has been holding back developments for too long."

The Planning and Infrastructure Bill will unleash seismic reforms to help builders get shovels in the ground quicker to build more homes, and the vital infrastructure we need to improve transport links and make Britain a clean energy superpower to protect billpayers."

It will help us to deliver the 1.5 million homes we have committed to so we can tackle the housing crisis we have inherited head on – not only for people desperate to buy a home, but for the families and young children stuck in temporary accommodation and in need of a safe, secure roof over their heads."

- 4.15. The Government's drive to deliver 1.5 million homes in this parliament is a material consideration in this appeal and has only had added increased weight since the determination of the original planning application just before the latest NPPF publication in December 2024. The update to the NPPF, the additional planning reforms set out by the Government are stepped changes to delivering more housing. The Deputy Prime Minister and Secretary of State for Housing, Communities and Local Government Angela Rayner MP is clear that more planning consents are required in the context of inadequate local plan coverage and has placed an importance on the weight attributed to the presumption in favour of sustainable development through the publication of the revised NPPF.

Housing Delivery in Barnsley

- 4.16. I refer to the evidence produced by Mr Good and agree with his findings which I summarise here.
- 4.17. The Council has failed to deliver their housing requirement set in the adopted BLP (Policy H1). Indeed, the housing requirement has not been met on any occasion during the 9 years of the plan period resulting in a significant shortfall in delivery over the plan period to date.

- 4.18. A total shortfall of 3,604 dwellings had been accrued up to 1 April 2024. Delivery over the plan period represents less than 70% of the BLP housing requirement to date. Of this shortfall, a substantial portion (2,042 dwellings) has been accrued in the past four years which highlights a worsening picture of housing delivery within the borough.

Year	Requirement	Net Completions	Surplus / Deficit	Cumulative Plan Period Surplus / Deficit
2014/15	1,134	622	-512	-512
2015/16	1,134	706	-428	-940
2016/17	1,134	856	-278	-1,218
2017/18	1,134	1,008	-126	-1,344
2018/19	1,134	988	-146	-1,490
2019/20	1,134	1,051	-83	-1,573
2020/21	1,134	588	-546	-2,119
2021/22	1,134	589	-545	-2,664
2022/23	1,134	681	-453	-3,117
2023/24	1,134	636	-498	-3,615

Table 4.1: Dwelling completions – Barnsley (Source: Barnsley Metropolitan Borough Council, 2025)

- 4.19. With regard to the FYHLS, the Council has perpetually sought to include major sites within its supply which fail to meet the criteria of a deliverable site. It has also promoted levels of delivery which exceed industry norms and direct evidence from the developer of a site. Mr Good's analysis concludes that 1,982 dwellings should be removed from the Council's supply.
- 4.20. Mr Good's evidence demonstrates that the overall deliverable housing land supply is reduced to just 2.02 years a very substantial deficit of 5,489 dwellings against the Council's current five year requirement.
- 4.21. The chronic and acute under-delivery over the plan period to date is likely to continue into the foreseeable future. The Council need to address this issue as a matter of urgency.
- 4.22. In light of the evidence of the Council and the Appellant, the FYHLS is between 2.02 years and 3.1 years, at best.
- 4.23. Given this position alongside the deteriorating housing land supply within Barnsley the Council should have attached very substantial positive weight to the delivery of housing when determining this application, something which it failed to do. Given the chronic and acute under-supply of housing over the plan period and the dire and deteriorating situation

in relation to the FYHLS position, the Inspector is respectfully requested to apply **very substantial positive weight** to the delivery of housing in the determination of this appeal.

Affordable Housing Delivery in Barnsley

- 4.24. The Barnsley Housing Strategy 2024-2028 [CD 5.12] sets out the Council's strategic priorities in relation to housing. It correctly identifies (page 3) that:
- "Living in good quality, affordable housing supports our health and wellbeing and is something every resident in Barnsley should have access to. Having this foundation helps people support their family, be part of their community and contribute to our economy."*
- 4.25. It also identifies (page 4) that the Council "...must make sure that sufficient affordable housing is available...".
- 4.26. The 2017 SHMA (CD 5.5B) identifies a net affordable housing need of 292 dwellings per annum in Barnsley. This figure was agreed by the Inspector conducting Local Plan examination (paragraph. 49, Local Plan Inspectors Report CD 5.1B). A subsequent update to the SHMA was provided in 2021 to inform the Local Plan Review (CD 5.5C). This unexamined report identifies a net annual affordable housing need of 190dpa.
- 4.27. The 2021 SHMA identified that the area with the greatest affordable housing need is the Hoyland, Wombwell and Darfield sub-area with a total net need of 314 affordable dwellings per annum. The Proposed Development is sited within this area of greatest need.
- 4.28. Within the Hoyland Milton ward, within which the proposed development is set, there has been just 30 (gross) affordable housing completions in 2019/20 with no further affordable completions after this date despite continued housing delivery.
- 4.29. Total affordable housing delivery in Barnsley, taking account of Right to Buy (RtB) sales, has actually only increased by just **35 dwellings**, since 2019/20; that is an average net increase of less than 7 affordable dwellings per year. This is a shortfall of 183 affordable homes per annum against the need identified within the 2021 SHMA and 285 affordable homes per annum against the examined need from the 2017 SHMA. There is also a massive waiting list for affordable housing and huge levels of competition between those in need of such housing.
- 4.30. Given these dire statistics a 'step change' in affordable housing delivery is needed now to address these significant shortfalls within Barnsley and ensure that the future authority-wide needs for affordable housing can be met.
- 4.31. The addition of circa 18 new affordable homes on the Proposed Development will make an important contribution to reducing this deficit and meeting the affordable housing needs of Barnsley.
- 4.32. There is a 670-dwelling shortfall in affordable housing that has accumulated since 2021; there is an urgent need to address this as soon as possible.
- 4.33. The provision of circa 18 affordable dwellings as part of the appeal proposals should be afforded **substantial positive weight** in the determination of this appeal. This position is supported by numerous appeal and Secretary of State decisions.

Consequences of Housing Delivery Failure

- 4.34. Below are extracts and commentary from two reputable reports on the housing crisis.
- 4.35. In August 2019 the Children's Commissioner produced a report titled "*Bleak Houses: Tackling the Crisis of Family Homelessness in England*" [CD 10.15] to investigate the impact of homelessness and in particular the effect of this upon children.
- 4.36. The report identified that family homelessness in England today is primarily a result of structural factors, including the lack of affordable housing and recent welfare reforms
- 4.37. It stated that the social housing sector has been in decline for many years and that between the early 1980s and early 2010s, the proportion of Britons living in social housing halved, because of losses to stock through the Right to Buy and a drop in the amount of social housing being built.
- 4.38. The research found that the decline in social housing has forced many households, including families, into the private rented sector. High rents are a major problem: between 2011 and 2017 rents in England grew 60% quicker than wages. It stated that "*Simply put, many families cannot afford their rent. It is telling that over half of homeless families in England are in work*".
- 4.39. The report particularly focused on the effect on children. The report revealed that many families face the problem of poor temporary accommodation and have no choice but to move out of their local area, which can have a "deeply disruptive impact on family life". This can include lack of support (from grandparents for example) and travel costs.
- 4.40. It found that a child's education can suffer, even if they stay in the same school, because poor quality accommodation makes it difficult to do homework and that younger children's educational development can also be delayed.
- 4.41. Temporary accommodation also presents serious risks to children's health, wellbeing, and safety. This is particularly so for families in B&Bs where they are often forced to share facilities with adults engaged in crime, anti-social behaviour, or those with substance abuse issues.
- 4.42. More recently, in May 2021, Shelter published its report "*Denied the Right to a Safe Home – Exposing the Housing Emergency*" [CD 10.2] which sets out in stark terms the impacts of the affordable housing crisis. The report affirms that affordability of housing is the main cause of homelessness (page 15) and that "*we will only end the housing emergency by building affordable, good quality social homes*" (page 10).
- 4.43. In surveying 13,000 people, the research found that one in seven had to cut down on essentials like food or heating to pay the rent or mortgage. In addition, over the last 50 years the average share of income young families spend on housing has trebled. The following statements on the impacts of being denied a suitable home are also made in the report:

"Priced out of owning a home and denied social housing, people are forced to take what they can afford – even if it's damp, cramped, or away from jobs and support networks."
(Page 5)

"... people on low incomes have to make unacceptable sacrifices to keep a roof over their head. Their physical and mental health suffers because of the conditions. But because of high costs, discrimination, a lack of support, and fear of eviction if they complain to their landlord, they are left with no other option." (Page 5)

The high cost of housing means the private-rented sector has doubled in size over the last 20 years. [...] Most private rentals are let on tenancies of 6 to 12 months, and renters can be evicted for no reason because of section 21. This creates a permanent state of stress and instability. (Page 6)

If you live in an overcrowded home, you're more likely to get coronavirus. If you live in a home with damp and black mould on the walls, your health will suffer. (Page 9)

"14% of people say they've had to make unacceptable compromises to find a home they can afford, such as living far away from work or family support or having to put up with poor conditions or overcrowding" (Page 12)

"Spending 30% of your income on housing is usually the maximum amount regarded as affordable. Private renters spend the most, with the average household paying 38% of their income on rent, compared to social renters (31%) and owner-occupiers (19%)." (Page 14)

"19% of people say their experiences of finding and keeping a home makes them worry about the likelihood they will find a suitable home in the future." (Page 15)

"Families in temporary accommodation can spend years waiting for a settled home, not knowing when it might come, where it might be, or how much it will cost. It's unsettling, destabilising, and demoralising. It's common to be moved from one accommodation to another at short notice. Meaning new schools, long commutes, and being removed from support networks. Parents in temporary accommodation report their children are 'often unhappy or depressed', anxious and distressed, struggle to sleep, wet the bed, or become clingy and withdrawn." (Page 25)

"Landlords and letting agents frequently advertise properties as 'No DSS', meaning they won't let to anyone claiming benefits. This practice disproportionately hurts women, Black and Bangladeshi families, and disabled people." (Page 29)

"The situation is dire. A lack of housing means landlords and letting agents can discriminate knowing there is excess demand for their housing." (Page 30)

Shelter estimate that some 17.5 million people are denied the right to a safe home and face the effects of high housing costs, lack of security of tenure and discrimination in the housing market (Page 32).

The Delivery of the Appeal Scheme

- 4.44. The appeal proposal is expected to deliver in the region of 165 to 180 dwellings, 10% of which will be affordable (policy compliant). I have been made aware that several housebuilders have expressed their interest in developing the site. I understand that the site can be brought to the market swiftly should the appeal be allowed to enable reserved



matters applications to be submitted and approved next year, with commencement on site the following year (2027).

- 4.45. At an estimated build out of 40 dwellings per annum (including the affordable), this would deliver circa 100 dwellings in the next five years to 1 April 2030, the development being completed by 2032. This represents a significant contribution to the Council's FYHLS.

5. The Main Issues

- 5.1. Main Issue 1 is dealt with in the evidence of Mr Good and as summarised above. Main Issues 2 & 3 directly relate to the two reasons for refusal and I seek to address these in this section.

Main Issue 2 and Reasons for Refusal 1 in relation to Safeguarded Land

- 5.2. Main Issue 2 is the whether the development would be contrary to local and national policies in relation to safeguarded land and if so the weight to be given to such conflict. Reasons for refusal 1 states:

1. The application site forms part of site SL6, Land North East of Hemingfield and is allocated as Safeguarded Land within the Local Plan. The site is not allocated for development at the present time and planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development. The proposal is therefore contrary to the NPPF and Local Plan Policy GB6.

- 5.3. The appeal proposals are agreed to be in conflict with Local Plan Policy GB6, being designated as Safeguarded Land and the policy stating that *"The permanent development of safeguarded land will only be permitted following a review of the Local Plan which proposes such development"*.

- 5.4. The NPPF at paragraph 149 states that: *When defining Green Belt boundaries, plans should:*

c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;

d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development; (my emphasis).

- 5.5. The NPPF paragraph 149 is therefore a plan making policy. I first address this main issue in relation to the development plan policy, before turning to the implications of NPPF paragraph 149.

- 5.6. Whilst there is agreed conflict with Policy GB6, the key issue is the degree of weight to be applied to it in the context of the tilted balance. I have set out why Policy GB6 is out-of-date in Section 3 above; it is a policy that restricts the supply of housing where there is an urgent need (as demonstrated by the really poor performance in delivery of both market and affordable housing and the acknowledged lack of deliverable housing land, with an accepted significant FYHLS shortfall), and it is a policy that was clearly formulated on the basis of the BLP delivering housing in accordance with the trajectory in the adopted plan. The expected delivery since the plan was adopted has failed (see paragraphs 4.18 & 4.19 and table 4.1 above) and this is an unexpected change in circumstance, not anticipated by the BLP at adoption that renders Policy GB6 out-of-date in its own right. In addition, Policy

GB6 is inarguably out-of-date as it is agreed to be a most important policy that is out of date as a consequence of the failure of the Council to maintain a five year supply of deliverable housing sites (NPPF Footnote 8).

5.7. An important judgement to assist in the application of weight is to be found in the Supreme Court judgment in **Richborough Estates v Cheshire East: Hopkins Homes v Suffolk Coastal** [2017] UKSC 37 [CD 7.13]. At the time the judgement was handed down paragraph 49 meant only the relevant policies for the supply of housing were automatically out of date. The 2018 version of the NPPF however ushered in a far more wide ranging consequence for LPAs of not having a FYHLS. This version of the NPPF and all subsequent versions make clear that all of the most important policies for the determination of an application will be out of date if there is no FYHLS. This is made clear from reading paragraph 11d and footnote 8. Crucially, it is not just the housing policies which are out of date under the 2018 version of the NPPF and all subsequent versions. It is now other key policies which are also out of date, such as Safeguarded Land policies.

5.8. Hopkins Homes victory is relevant to the facts of this case because the Supreme Court made clear that, regardless of whether LPAs might have a recently adopted plan, the consequence of not having a FYHLS is wide ranging. See in particular the judgment of Lord Gill, paragraphs 77, 78,79 and 83:

"77. The importance that the guidance places on boosting the supply of housing is further demonstrated in the same paragraph by the requirements that for market and affordable housing planning authorities should illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing, describing how they will maintain delivery of a five-years supply of housing land to meet their housing target; and that they should set out their own approach to housing density to reflect local circumstances. The message to planning authorities is unmistakeable.

78. These requirements, and the insistence on the provision of "deliverable" sites sufficient to provide the five years' worth of housing, reflect the futility of authorities' relying in development plans on the allocation of sites that have no realistic prospect of being developed within the five-year period.

*79. Among the obvious constraints on housing development are development plan policies for the preservation of the greenbelt, and environmental and amenity policies and designations such as those referred to in footnote 9 of paragraph 14. **The rigid enforcement of such policies may prevent a planning authority from meeting its requirement to provide a five-years supply.***

83. If a planning authority that was in default of the requirement of a five-years supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated. The purpose of paragraph 49 is to indicate a way in which the lack of a five-years supply of sites can be put right. It is reasonable for the guidance to suggest that in such cases the development plan policies for the supply of housing, however recent they may be, should not be considered as being up to date." (my emphasis)

5.9. As the reasoning of Lord Gill makes clear, out of date policies should then be treated as less of an obstacle to the grant of permission. Their barrier effect should be reduced. The



Council should not be rigidly enforcing them. The NPPF is therefore, in the words of Lord Gill, indicating to the LPA what they should do. They should be applying policy more flexibly particularly for policies which are restricting housing and causing the Council not to have a FYHLS, or which if disapplied would help address the housing delivery and supply problem. The 2018 and current NPPF reflects that approach. When there is no FYHLS something has got to give. And in this case, it is Policy GB6.

- 5.10. Policy GB6 is a policy that restricts the supply of housing and without the relaxation of such of policies there is no apparent remedy to the dire housing land delivery problem and supply shortage in Barnsley for the foreseeable future.
- 5.11. With regard to NPPF paragraph 149, I agree that Policy GB6, when drafted and adopted displays conformity with this plan making policy. When the Green Belt boundary was defined in the BLP and safeguarded land was also defined, the policy at that time made clear that *"safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development"*.
- 5.12. However, it is important to emphasise that paragraph 149 is a plan making policy in providing guidance to LPAs when they are defining Green Belt boundaries, and should be read in that context. At the time of adoption of the BLP in 2019, Policy GB6 was in conformity with the NPPF and doing what it was intended to do – hold back development of Safeguarded Land to allow the allocated sites to deliver the plan's housing requirements. The failure of the majority of the plan's allocated housing sites to come forward for development, despite having been allocated for over 5 years (and in a submission draft allocation for over 7 years) means the continued application of Policy GB6 to hold back development no longer serves a valid planning purposes. Indeed its strict application frustrates the key housing delivery objective²¹ of the NPPF of significantly boosting the supply of homes and²² maintaining a 5 year land supply. This is particularly so in light of the Government's policy to build 1.5 million new homes over their term in office.
- 5.13. As NPPF paragraph 11d) directs, the tilted balance is to be *"assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination"* (my emphasis). No emphasis is placed on Safeguarded Land policies at paragraph 11d).
- 5.14. I assess the appeal scheme's compliance with the Footnote 9 NPPF policies in Section 8 below and find the scheme to accord with these policies.
- 5.15. Having been designated as safeguarded land, the general principle of the site's suitability to be developed has been established through the local plan process. Further, subject to conditions, all site-specific technical matters and development management policy requirements have been satisfactorily addressed through the planning application process.

²¹ NPPF paragraph 61

²² NPPF paragraph 78

- 5.16. I turn now to the implication of other policies of the Framework along with an understanding of Safeguard Land in assisting further on understanding the weight to be applied to Policy GB6

Government's aim to significantly boost the supply of homes

- 5.17. As set out in Section 4 above, the government's commitment is clear in responding to the housing crisis. The NPPF is also clear at Paragraph 61:

*"To support the **Government's objective of significantly boosting the supply of homes**, it is important that a sufficient amount and variety of land can come forward where it is needed, that **the needs of groups with specific housing requirements are addressed** and that land with permission is developed without unnecessary delay. **The overall aim should be to meet an area's identified housing need**, including with an appropriate mix of housing types for the local community." (my emphasis)*

- 5.18. The evidence of Mr Good is also clear in identifying that Barnsley is performing woefully in failing in no short order to provide the much-needed market and affordable housing required. There is chronic under delivery and significant need.
- 5.19. To provide the correct foundations for the scale of housebuilding envisaged by the Government it is undertaking an overhaul of the planning system with new policy initiatives, including the identification and prioritisation of 'grey belt' land for development.
- 5.20. The Government is clear that (NPPF, paragraph 155):
- "The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:*
- a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;*
 - b. There is a demonstrable unmet need for the type of development proposed;*
 - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and*
 - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 below."*
- 5.21. This permissive policy stance is in the context of the 'great importance' the Government attaches to Green Belts (NPPF, paragraph 142) and the fact that when defining Green Belt boundaries through the plan making process plans should be able to demonstrate that they will not need to be altered at the end of the plan period (NPPF, paragraph 149d). This relaxation of Green Belt policy is a reasonable response to the housing crisis and provides a clear policy basis at a national level for bringing forward Green Belt land for much needed development in advance of the plan making process.
- 5.22. Safeguarded Land is already removed from the Green Belt and the appeal site is included within the settlement boundary of Hoyland, a Principal Town. Whilst the NPPF remained unchanged in its approach to Safeguarded Land in the recent December 2024 version, I consider the Government is now placing greater weight on meeting unmet needs when



having regard to policy designations that were previously intended to endure to beyond the plan period.

- 5.23. Unlike Green Belt, the Government does not describe Safeguarded Land being of 'great importance' and does not identify 'permanence' as one of their essential characteristics²³. It is not defined in the NPPF and is only mentioned at paragraph 149. It is not referenced in the recent update of the PPG in respect of Green Belts. Safeguarded means the land is reserved to ensure it is available to meet future development needs. It is acceptable in principle for development, it is just the timing of it coming forward that is in question. And it is the urgency of the housing need in Barnsley that requires safeguarded land to come forward now rather than await an update to the plan that there is no indication of happening any time soon.
- 5.24. The NPPF does not ascribe more weight to the protection of safeguarded land compared to Green Belt and the recent relaxation of Green Belt policy where there are urgent housing needs is a key change in the December 2024 version of the NPPF.

What adverse effects of release now?

- 5.25. As already identified, the appeal site is an acceptable site for housing. No material harm has been identified beyond that the subject of Main Issue 2, that I turn to below.
- 5.26. I refer to three appeal decisions in respect of Safeguarded Land and the way Inspectors have dealt with safeguarded land policies when the tilted balance is applied:
- 5.27. In the Tincklers Lane, Ecclestone appeal decision of 18 February 2022 (Appeal A Ref: APP/D2320/W/21/3272310 at **CD 7.14**) the Inspector at paragraph 82 concludes: *'Appeal A and Appeal B conflict with Policy BNE3 and this is accepted by the appellant in both cases. Whilst BNE3 is broadly consistent with the Framework it is also out of date as it safeguards land based on the housing requirement in Policy 4 which is also out of date. In terms of the release of safeguarded land ahead of the adoption of the emerging Local Plan I note that there has been an increase in applications for development of safeguarded land within the Borough. However, although the plan is at early stage the sites are identified as site suggestions in the LP and there are no special local circumstances that have been put forward in respect of prematurity. I attach limited weight to the conflict of the schemes with BNE3'*. And at paragraph 86: *'Notwithstanding the scheme's conflict with Policy BNE3, material considerations in the case of Appeal A indicate a decision other than in accordance with the development plan. For these reasons, Appeal A succeeds'*.
- 5.28. In the Blainscough Lane, Coppull appeal decision of 3 February 2022 (Appeal Ref: APP/D2320/W/21/3275691 **CD 7.15**) the Inspector concludes at paragraph 87: *'Weighing against the proposal is the conflict with the sites safeguarded land designation in Policy BNE.3 of the CLP. I have already found this policy to be out of date. The policy remains generally consistent with paragraph 143 of the Framework, as it seeks to safeguard land for future development needs. However, it is based on a housing requirement set out in CLCS Policy 4 which is out of date and inconsistent with the local housing need methodology and*

²³ NPPF paragraph 142

housing requirement. It is therefore for this reason, inconsistent with the Framework. Accordingly, I attribute limited weight to the conflict with Policy BNE.3’.

- 5.29. In the Land South of Selby Road, Garforth appeal that was allowed on 11 February 2019 (Appeal Ref: APP/N4720/W/18/3198312 **CD 7.16**) the Inspector identifies the Leeds safeguarded land policy’s (Policy N34 referred to as Protected Area of Search, or PAS land) conformity with national policy at paragraph 12: *‘the principle of safeguarding land outside of the Green Belt to meet longer-term development needs is consistent with paragraph 139 (c) and (d) of the Framework’* (my emphasis).. But, he identifies at paragraph 15 that: *‘The PAS land was safeguarded to meet future development needs. In my view, the current situation at a time beyond the relevant plan period, where housing needs are not being met, and where there is no alternative plan in place to accommodate needs, is the time to make use of such land. After all, the PAS land has been identified as suitable for development in principle and specifically removed from the Green Belt accordingly. To restrict much needed development due to a conflict with Policy N34 would serve no useful or logical purpose, it would simply frustrate development. For this reason, I attach very limited weight to the conflict with Policy N34 in this case’ (my emphasis).*
- 5.30. The Inspector went on to deal with the alleged conflict with national policy on safeguarded land, which was then at NPPF paragraph 139, at paragraph 16 of his decision: *‘The Council suggests that the appeal should fail having regard to paragraph 139(d) of the Framework alone. However, this is not a restrictive policy of the Framework contained in the closed list footnoted to paragraph 11 and which seeks to protect areas or assets of importance. Furthermore, paragraph 139 is clearly framed with reference to plan-making as opposed to decision-taking. It is nonetheless a material consideration to which I have had regard in reaching the above conclusion. For the reasons I have set out, it would not be appropriate to withhold planning permission in this case pending an update to a plan. The Council’s point is, in essence, a point about prematurity, a matter that I will come to later in this decision’.*
- 5.31. That appeal Inspector also dealt with the potential issue of prematurity, noting that there was an emerging site allocations development plan at the time of the decision that had reached examination – a completely different scenario to the present appeal. Even with an emerging plan at examination and an appeal scheme for 290 dwellings, the Inspector concluded on prematurity at paragraph 32: *‘The Framework is clear that arguments that an application is premature are unlikely to justify a refusal of planning permission. There is very little evidence to suggest that the development would be so substantial or significant, even cumulatively with other schemes allowed on safeguarded land, as to predetermine decisions about the scale, location or phasing of new development that are central to the SAP. It has not been demonstrated how the plan-making process would be prejudiced. Furthermore, for the reasons I have set out, the SAP is not at a sufficiently advanced stage at the present time to be relied upon’.* The appeal was duly allowed.

Conclusions

- 5.32. In light of the above, I do not consider that Safeguarded Land should be treated any different to other policies that stand in the way of housing delivery when the tilted balance is engaged. Other policies that stand in the way of housing delivery are often to protect a site’s intrinsic value for an acknowledged planning purpose, be that countryside, landscape value, green wedge or similar, none of which apply here. Conversely, safeguarded land has already been identified as being suitable for development and the policy is in place to

ensure it continues to be made available for its intended purpose. Whilst there is policy conflict with GB6 in this case, beyond that issue of conflict itself, there is no identifiable substantive harm that would arise from this development proceeding, indeed, not allowing such sites to come forward when they are desperately needed for the delivery of market and affordable housing is what would actually result in harm.

- 5.33. The appeal site is within a sustainable location, within the existing development limits of Hemingfield which in policy terms is part of the Principal Town of Hoyland and as such it would accord with the spatial strategy of the BLP. The application drew no objections from statutory consultees. It is, therefore, clear that the release of this site from safeguarded land now, in order to help meet an urgent housing need with a decreasing supply would not actually cause any material harm. Applying significant weight to the application of Policy GB6 would pull in the opposite direction of the NPPF when read as a whole, as is required by paragraph 3 of the NPPF. For all the reasons set out above, the weight to be applied to Policy GB6 must be very limited.
- 5.34. In relation to NPPF paragraph 149 itself, as it is not a decision making policy and instead sets out what policies in plans should say at the date the plan is created and the Green Belt boundary set, there is no opportunity for there to be conflict with it in decision making. The appeal scheme does not conflict with NPPF paragraph 149 and for the reasons set out above, NPPF paragraph 149 does not lend weight or support to Policy GB6 given the change in circumstances from when Policy GB6 was included in the adopted plan.

Main Issue 3 and Reasons for Refusal 2: Whether the development would prejudice 'comprehensive' delivery on the wider site

- 5.35. Reason for Refusal 2 states:
- 2. In the opinion of the Local Planning Authority, the proposal would constitute piecemeal development. The site forms part of a wider safeguarded site SL6, Land North East of Hemingfield, therefore the development this site would have a potential impact on the comprehensive development of the wider site, contrary to policy GD1 of the Local Plan**
- 5.36. No explanation is provided as to how the development would have a 'potential impact' upon the comprehensive development of the wider site; it fails to clarify what the potential impact might be.
- 5.37. The nature of that potential impact is not described in the Council's decision notice. Nor is it described in the officer's report, rather the officer's report sets out a vast range of matters that have been agreed and settled through the Appellant working proactively with the Council. Indeed, no technical or locational issues were left outstanding, and the officer's report makes clear that all relevant impacts of the proposed development have been assessed, and none would create unacceptable harm.
- 5.38. The concern appears to be that the appeal scheme would have a 'potential' impact on the comprehensive development of the wider site. To avoid concerns of this nature it is not necessary for all of this safeguarded land to be subject to a single planning application or to be brought forward at the same time. That is clearly the position with Policy GD1 as both

the second and third criteria of the policy actually anticipate and provide for subsequent applications to follow; the requirement of the policy is to not significantly prejudice the current or future use of the neighbouring land and to not adversely affect the potential for their subsequent development.

- 5.39. The only alleged policy conflict is with Policy GD1: General Development. This is a 'catch-all' development management policy which sets out over-arching reasons as to why a particular proposal should be approved. The SoCG established that the only area of dispute between the Council and the Appellant in relation to Policy GD1 relates to the second and third paragraphs; these state that;

"Proposals for development will be approved if...

*They are compatible with neighbouring land and **will not significantly prejudice** the current or future use of the neighbouring land; and*

*They will **not adversely affect the potential development of a wider area of land** which could otherwise be available for development and safeguards access to adjacent land...". (my emphasis).*

- 5.40. Policy GD1 is therefore clear that the potential development of the balance of SL6 should not be adversely affected or significantly prejudiced by the Appeal Proposals. Policy GD1 does not require such land to be 'comprehensively' developed.

- 5.41. The lack of identifying any specific harm and use of the word 'potential' in the refusal suggests that the Council is unable to substantiate this Reason for Refusal, given that they are unable to clearly articulate what the adverse effects would be. Following the initial submission of this appeal, the Appellant requested, via letter (**CD 11.1**), that the Council substantiate the 'potential' impacts prior to the publication of its SoC to enable the Appellant to consider and address these potential impacts. A response to this request did not materialise.

- 5.42. During the determination period of the planning application, the Council considered the issue of the wider safeguarded land but only ever asked the applicant to test the robustness of the proposed site access to ensure it would be able to accommodate the traffic arising from the wider safeguarded land site. This was duly undertaken and tested, the Highways consultation response [**CD 4.19B**] confirming that: *'A detailed Transport Assessment taking into account the whole of the safeguarded land site has been provided by Bryan G Hall Associates and this satisfactorily demonstrates that a residential scheme of this size and nature can be accommodated on the existing public highway network without need for mitigating works'.*

- 5.43. No further request for details relating to the wider safeguarded land were made by the Council during the determination period.

- 5.44. The Council's Statement of Case [**CD 9.2**] still fails to substantiate the reason for refusal but now asserts that the wider safeguarded land should be masterplanned. This is the first time this has been raised and I do not agree with that assertion. There is no requirement for the wider site to be masterplanned and the lack of a masterplan for the wider site cannot therefore constitute a reason for refusal. No part of Policy GD1 says there needs to a masterplan. The Council has not advanced any reason why there should be a masterplan for this site or the harms that may flow if not.

The point of Safeguarded Land is to make sure it will be available in the future when it will be needed to meet development needs. The release of the appeal site is being put forward for development now to meet an urgent housing need; the fact that it does not extend to the wider Safeguarded Land now should not count against it, providing it does not significantly prejudice/adversely affect the remaining safeguarded land from coming forward at some point in the future.

- 5.45. Whilst the Council has failed to produce any evidence of how the appeal scheme could prejudice, or adversely affect, the future delivery of the remaining Safeguarded Land, the appellant has nonetheless considered this matter and attached as **Appendix 4** is a high level report looking at how the development of the remaining Safeguarded Land would be affected by the appeal scheme. This concludes that the delivery of the appeal site will not prejudice the future delivery of the remaining safeguarded land to the north of Hemingfield. In fact, by delivering a new junction, improvements to bus services and bus stop infrastructure as part of this proposal, and access links to the adjoining land, the appeal scheme will actually help facilitate the delivery of the remaining safeguarded land
- 5.46. In respect of NPPF paragraph 77 as raised in the Council's SoC, this is a plan making policy to guide LPAs in preparing development plans and where they are seeking to identify and allocate large scale urban extensions and new settlements. As such, the appeal proposal cannot be in conflict with it. Whilst the policy aims are admirable as part of plan making, they are not the only option to secure high quality developments. Paragraph 77 acknowledges this in stating '*The supply of large numbers of new homes can often be best achieved through planning for larger scale developments*' (my emphasis).
- 5.47. The NPPF provides policies to secure high quality, well designed and responsive developments without the need for masterplans. Paragraph 135 in particular sets a clear policy expectations for decision makers to ensure that developments achieve high design standards. This policy approach is already reflected in BLP Policy D1 High Quality Design and Placemaking that sets out a long list of criteria that development should achieve through its layout and design:
- Contribute to place making and be of high quality, that contributes to a healthy, safe and sustainable environment;
 - Complement and enhance the character and setting of distinctive places, including Barnsley Town Centre, Penistone, rural villages and Conservation Areas;
 - Help to transform the character of physical environments that have become run down and are lacking in distinctiveness;
 - Provide an accessible and inclusive environment for the users of individual buildings and surrounding spaces;
 - Provide clear and obvious connections to the surrounding street and pedestrian network;
 - Ensure ease of movement and legibility for all users, ensure overlooking of streets, spaces and pedestrian routes through the arrangement and orientation of buildings and the location of entrances;

- Promote safe, secure environments and access routes with priority for pedestrians and cyclists;
- Create clear distinctions between public and private spaces;
- Display architectural quality and express proposed uses through its composition, scale, form, proportions and arrangement of materials, colours and details;
- Make the best use of high quality materials; Include a comprehensive and high quality scheme for hard and soft landscaping; and
- Provide high quality public realm.

5.48. I would expect Policy D1 to be applied to future reserved matters applications on this site should the appeal be allowed, and to then also be applied to any subsequent planning application on the remaining safeguarded land. The robust application of Policy D1 is able to ensure that the layout and design of any future applications on the wider safeguarded land are consistent and complimentary to the appeal site scheme.

In conclusion on Main Issue 3, the report at **Appendix 4** demonstrates that the appeal scheme will actually facilitate the future delivery of the remaining safeguarded land rather than prejudice it. This is entirely consistent with Policy GD1 that requires the appeal scheme to not adversely affect the potential development of a wider area. There is no requirement for the wider site to be masterplanned; existing national and development plan policies are in place to ensure that a high quality and complementary development can be secured across the wider safeguarded land.

6. Matters Raised by Third Parties

- 6.1. I have had regard to whether any issues raised by third parties are material considerations. In doing so it is important to note that no statutory consultees objected to the Appeal Proposals.
- 6.2. During the application process, 48 objections were submitted by third parties. The majority of the matters raised by third parties are already addressed in my evidence and that of other witnesses. In particular:
- A Technical Note entitled 'Impact of the Appeal Scheme on Flood Risk and Drainage Elsewhere' is enclosed at **Appendix 2** of my evidence, prepared by Mr Tilford of Weetwood. This seeks to address the flooding and drainage concerns raised by third parties.
 - At **Appendix SCW 26** of Mr Wilkins' Proof of Evidence is a note seeking to address the traffic and transportation concerns raised by third parties.
 - The evidence of Mr Hunter demonstrates the spare capacity that exists in local schools
- 6.3. In relation to other matters raised, these are addressed in the table below:

Theme of Public Comment	Appellant's Response
Concern about impact on wildlife and habitats.	<p>The Officer's Report confirms that robust, comprehensive and up to date ecology reports (Ecological Appraisal (CD 3.8), Additional Ecological Surveys Report (CD 3.9) Baseline Habitat Plan (CD 3.31) and Biodiversity Metric (CD 3.7)) were submitted with the application, and the Ecology officer has considered the reports with no objections to the proposal (CD 4.1). In respect of bats, no roosts were detected in the disused buildings and bat activity was observed to be consistently low throughout the site. The Ecology officer also stated that the illustrative landscaping proposed on the site is considered to provide significant on-site net gains to biodiversity.</p> <p>The Ecology officer also requested that a sensitive lighting scheme is designed and submitted prior to first occupation of the site.</p>

<p>The proposed development would increase noise pollution and disturbance.</p>	<p>It is confirmed in the Officer's Report that Pollution Control (CD 4.6) did not object to the proposed development, subject to suggested conditions.</p> <p>The application was supported by a Noise Impact Assessment and an Air Quality Assessment, both of which determined that any impacts of the proposed development would not be significant.</p>
<p>Concerns about impacts upon residential amenity.</p>	<p>The Officer's Report acknowledges that the application is in outline, with all matters reserved apart from access to, but not within, the site. As such, no detailed plans were submitted that show the exact layout of the scheme, which limits assessment of the impact on visual amenity. The report also reiterates that impacts upon amenity can be mitigated in part through the detailed design and landscaping which would be agreed at reserved matters stage.</p> <p>The Officers Report also acknowledges the comments made regarding privacy and loss of outlook. The report states that the detailed housing layout will be required to adhere to separation distances set out in the Design of Housing Development SPD, and the South Yorkshire Residential Design Guidance.</p> <p>The Officer's Report rightly states that although there are Public Rights of Way which traverse the site, the site itself is not classed as public green space. As indicated in the Illustrative Masterplan and Landscape Masterplan, the Appellant has shown provision of Public Open Space as part of the Appeal proposals. The outline scheme has been led by landscape considerations, which has been supported by the Urban Design officer (CD 4.11).</p>
<p>Concern about loss of green space used for amenity.</p>	
<p>The proposed development would impact trees on the site.</p>	<p>As stated in the Officer's Report, the Tree Officer commented on the proposal and confirmed that the vast majority of the site is clear of trees, however there are sporadic specimens located on the site (CD 4.20). The Officer's Report makes</p>

	<p>clear that there will be an expectation at Reserved Matters stage that those trees that will be retained on site are retained with sufficient room to avoid conflicts and future pressures, and that these will be bolstered and enhanced as part of any proposed landscaping where possible.</p>
<p>Concern about impacts on public services, such as doctors.</p>	<p>No requests for contributions have been made to expand existing practices. There are four GP practices within the catchment area of the site:</p> <ul style="list-style-type: none"> • Hoyland Medical Practice; • Walderslade Surgery; • Wombwell Medical Centre Practice; and • Wombwell GMS Practice. <p>All four are accepting new patients and all but Wombwell Medical Centre Practice are below the national average ratio of 1 FTE GP: 2,257 patients²⁴ as of 27 March 2025.</p>
<p>Concerns about the types of properties that are proposed.</p>	<p>The proposed development is at Outline stage, with only access being considered. Full details of house types, housing mix and tenure will be provided at Reserved Matters stage.</p>
<p>Concerns about the loss of agricultural land.</p>	<p>The land is classified as 'Urban' and 'Grade 3' in Natural England's Provisional Agricultural Land Classification (ALC) (England)²⁵. Whilst no detailed ALC has been requested or undertaken, the appeal site at 6.78 hectares will not result in the substantial loss of any Best and Most Versatile (BMV) agricultural land. No policy conflict arises.</p>

²⁴ <https://www.bma.org.uk/advice-and-support/nhs-delivery-and-workforce/pressures/pressures-in-general-practice-data-analysis>

²⁵ [Provisional Agricultural Land Classification \(ALC\) \(England\) | Natural England Open Data Geoportal](#)

- 6.4. A draft Section 106 agreement will be submitted to the inquiry.
- 6.5. The agreement will reflect the obligations as set out in Section 10 of the agreed Statement of Common Ground.
- 6.6. The S106 will confirm that, if the Inspector decided to allow the appeal, then the obligations identified would be necessary to make the development acceptable in planning terms.
- 6.7. Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 sets out the limitations on the use of Planning Obligations and confirms that 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; and
 - c) Fairly and reasonably related in scale and kind to the development.
- 6.8. To be lawful, planning contributions must comply with these legal tests. The basis for seeking an obligation can be underpinned by policy which once tested, adopted and applied correctly is likely to indicate a material degree of compliance with these tests, as set out below.
- 6.9. An alternative means of contributing towards infrastructure is provided through the Community Infrastructure Levy ("CIL") regime. This provides an ability for a charge to be levied on new development to fund infrastructure. The Council here do not have and are not promoting a CIL approach.
- 6.10. National Planning Policy Guidance makes clear at paragraph 23b-004-20190901 that policies for planning obligations should be set out in plans and examined in public. *"Policy requirements should be clear so that they can be accurately accounted for in the price paid for land. Such policies should be informed by evidence of infrastructure and affordable housing need, and a proportionate assessment of viability"*. The PPG goes on to identify that *"Plans should set out policies for the contributions expected from development to enable fair and open testing of the policies at examination"* (Paragraph 23b-013-2019031).
- 6.11. Further, case law establishes principles in relation to the proper application of the legal tests in regulation 122. This includes the following, which are apposite in this instance.
- 6.12. Following *R. (University Hospitals of Leicester NHS Trust) v Harborough DC* [2023] EWHC 263 (Admin), ("the Harborough Decision" CD 7.17) it is unlikely—absent specific justification—that a planning obligation requiring payment to a local NHS trust for the delivery of health care services to the residents of a new housing development will satisfy the tests in reg.122 of the Community Infrastructure Levy Regulations 2010. This is because the NHS trust is unlikely to be able to demonstrate a gap in funding that a developer should be required to meet, under the normal approach to the funding of NHS trusts.
- 6.13. In the case of *R. (Midcounties Co-operative Ltd) v Forest of Dean District Council* (2015 EWHC 1251)(CD 7.18), planning permission was quashed on the basis that the officers'

report did not identify sufficiently, the impacts of the development, and did not explain why the requested benefits were necessary to make the development acceptable.

- 6.14. I am yet to have sight of the Council's CIL compliance statement, but the S106 Head of Terms Section 10 of the Council's SoC [CD 9.2], sets out the Council's expectations. At this stage, I comment as follows:
- 6.15. **Affordable Housing** – 10% is agreed and considered CIL Regulation 122 compliant
- 6.16. **Education** – proposed contributions are not considered necessary to make the development acceptable in planning terms. This is because, from both a Primary and Secondary School perspective, the number of spare places far exceeds the child yield of the development when fully built out. Mr Hunter of EFM Ltd provides the evidence to substantiate this position.
- 6.17. **Greenspace** – It is not clear what precisely is being requested by the Council. There is a Supplementary Planning Document (SPD): Open Space Provision on New Housing Developments [CD 5.14], adopted in 2019 that sets out the Council's requirements for open space. This SPD relates to BLP Policies GS1 Green Space and I1 Infrastructure & Planning Obligations. At paragraph 5.1 the SPD sets out a requirement for a minimum of 15% of the gross site area of new housing development to be open space of a type appropriate to the character of the site, its location and the layout and nature of the new housing and adjoining land uses.
- 6.18. Paragraph 8.1 sets out three green space typologies to be provided:
- A. Equipped children's play areas
 - B. Informal play areas and informal landscaped areas
 - C. Formal recreation
- 6.19. The SPD at paragraph 8.2 states that an off-site financial contribution, based on the figures at Appendix 2, will be required in lieu of any of the above open space types that is not provided on site. The parameters plan at **Appendix 1** provides for 15% of the gross site area as open space in accordance with the SPD requirement; this to provide an equipped children's play area and informal open space area.
- 6.20. **Public Transport Improvements/Sustainable Travel** – The appellant agrees to the requested continuations in respect of sustainable travel, notably for bus service and bus infrastructure improvements, totalling £90,000. This is considered necessary and CIL Reg compliant.
- 6.21. **Biodiversity** – A contribution of £1,320 is requested to offset the loss of a single skylark territory and this is considered reasonable and necessary.
- 6.22. **Planning Conditions** – a schedule of planning conditions is presently being finalised between the Council and the Appellant and this will be submitted along with the draft S106 agreement in advance of the opening of the inquiry.

7. Planning Balance and Conclusions

- 7.1. Decision makers have a statutory duty to determine applications or appeals in accordance with the development plan unless material considerations indicate otherwise. The NPPF is an important material consideration, and in paragraph 11 the Government has set out its policy to guide decision makers in the performance of their statutory duty. As policy, paragraph 11 cannot displace the primacy of the development plan and functions within the statutory arrangements for decision taking but can act as a very weighty material consideration to justify not following the development plan, as is the case here.
- 7.2. The development plan relevant to this appeal is the Barnsley Local Plan (2019) [CD 5.1A]. The most important policies are agreed to be Policy GD1 General Development and Policy GB6 Safeguarded Land. These policies are out of date.
- 7.3. It is common ground that the presumption in favour of sustainable development in paragraph 11 (d) from the NPPF, the tilted balance, is engaged in this appeal by virtue of the Council's inability to demonstrate a five-year housing land supply. Footnote 8 thus deems the policies most important for determining the appeal out-of-date.
- 7.4. In the absence of any applicable Footnote 7 policies, as is the case here, the decision-taker must proceed to limb (ii) of NPPF paragraph 11(d) and determine the application accordingly. This states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Footnote 9 notes that this further detail in paragraph 11(d) relates to those in paragraphs 66 and 84 of chapter 5; 91 of chapter 7; 110 and 115 of chapter 9; 129 of chapter 11; and 135 and 139 of chapter 12. I seek to have regard to these policies in undertaking the planning balance below.
- 7.5. In order to assess the benefits of the development, and any harm that would arise, it is useful to conduct this exercise in the context of the Government's approach to achieving sustainable development and the three overarching objectives of the planning system, set out in paragraph 8 of the NPPF.

Benefits of Development

Social Benefits

- 7.6. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed.²⁶

²⁶ Paragraph 61 of the National Planning Policy Framework (2024).

- 7.7. The Council cannot demonstrate a five-year supply of deliverable housing land. Indeed, the Council's position is stated at 3.1 years and the Appellant's at 2.02 years, both of which represent a significant shortfall.
- 7.8. The consequences of failing to meet housing needs (see paragraphs 4.34 – 4.43 above) have significant, detrimental impacts on those people unable secure suitable accommodation. The appeal scheme will make a positive contribution in helping to meet the needs of those people in Barnsley presently living in unsuitable accommodation. As a result of the significant shortfall in housing delivery and, in the context of the Council's chronic failure to deliver housing, **very substantia positive weight** should be attached to the delivery of up to 180 new dwellings
- 7.9. The provision of 10% affordable housing is, in its own right, a significant benefit of the scheme. The provision accords with NPPF Paragraph 66 that when considering major development it is expected "*that the mix of affordable housing required meets identified local needs, across Social Rent, other affordable housing for rent and affordable home ownership tenures*". As prescribed in the S106 agreement, the tenure split and mix is to be agreed at the reserved matters stage in line with the Council's identified needs at that time. In accordance with NPPF Paragraph 11 d(ii), this affordable housing provision is a key benefit. Particular regard should be given to it in the balance of the adverse impacts and benefits of the development. Given the significant shortfall in the delivery of affordable housing over the past decade as detailed in Mr Good's evidence, on-site policy compliant affordable housing provision should attract **substantial positive weight**.
- 7.10. In terms of on-site open space provision, 15% of the site area will be provided including an equipped children's play area that will be accessible to existing nearby residents and their children with new and improved pedestrian linkages. I attach **moderate positive weight** to this benefit.
- 7.11. The evidence of Mr Hunter at paragraph 5.24 identifies that the pupils that will be resident in the proposed new housing will actually be a net benefit to an area that is seeing falling rolls, as schools are funded on the basis of the number of pupils they have on the roll. Therefore, from an education and sustainability perspective, the development should be looked upon positively. I attach **moderate positive weight** to this benefit,

Economic Benefits

- 7.12. Paragraph 85 of the Framework sets out that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 7.13. The appellant has quantified a number of economic benefits that will flow from the proposals, as set out in the Infographic at **Appendix 3** These are summarised as follows:
- 7.14. Construction Benefits
- 7.15. **£37 million** Estimated construction investment over a 5 year build programme.
- 7.16. **108** Direct construction roles and indirect/induced jobs supported per annum during build phase.

- 7.17. **£35.3 million GVA** Economic output contribution from jobs supported by activities at the site over the 5 year build out.

Operational Benefits

- 7.18. **190** Economically active and employed residents estimated to live in the new housing.
- 7.19. **£1.1 million** Estimated first occupation expenditure. Research suggests that the average homeowner spends approximately **£6,000** within the first 18-months to make their house 'feel like home'.
- 7.20. **40%** Of employed residents estimated to be working in higher value/higher income occupations
- 7.21. **£402,032** Estimated annual increase in Council Tax revenue.
- 7.22. These are considerable economic benefits arising from the development proposals and to which I give **moderate positive weight**.

Environmental Benefits

- 7.23. The proposal would generate a host of environmental benefits, notably through delivering housing in a sustainable location. In the context of national planning policy, the appellant has maximised opportunities for sustainable transport in accordance with NPPF Paragraph 110 which states that "*significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes*"
- 7.24. The proposed development through the provision of a detailed access design, provision of enhanced walking and bus infrastructure (into the existing network and providing further linkages to existing infrastructure and the countryside) as agreed in the consultation response from SYMCA²⁷ [CD 4.12] and detailed in the Design and Access Statement²⁸ [CD 3.13] highlights how the development accords with NPPF Paragraph 115.
- 7.25. The appeal site is considered to be in a sustainable location, as evidenced by Mr Wilkins. His evidence identifies that the site is located on the northern edge of Hemingfield within an acceptable walking distance (800m) of a range of existing facilities, including The Elliss CofE Primary School, Hemingfield Recreation Ground and Hemingfield Village Store. Wombwell railway station is also within an acceptable (1000m) walking distance for commuting trips²⁹.

²⁷ Proposed relocation of a bus stop along with new shelters and real time passenger information for the two nearest bus stops

²⁸ Movement Hierarchy Section from page 20 showing new footpath links

²⁹ Mr Wilkin's PoE Tables 4.1 & 4.2

- 7.26. Bus stops are within the 400m desirable walking distance with regular to key destinations including Barnsley, Wombwell and Hoyland³⁰.
- 7.27. Wombwell railway station offers frequent services to nearby destinations including Barnsley, Wakefield, Huddersfield, Leeds, and Sheffield. The provision of the cycle link under the A6195 Dearne Valley Parkway to the north-west of the site provides an important traffic free part of the link to Wombwell Station³¹.
- 7.28. Mr Wilkins concludes at paragraph 4.34 that *"There are numerous opportunities for sustainable travel to and from the proposed development site, which is in accordance with the objectives of local and national transport planning policy"*. I agree with that conclusion.
- 7.29. These factors weigh in favour of the scheme and should attract **moderate positive weight**.
- 7.30. The Environment Act 2021(Commencement No 8 and Transitional Provisions) Regulations 2024 (SI 2024/44) commence provisions of the Environment Act 2021 on the 12th of February 2024 (emphasis added).
- 7.31. Regulation 3 sets out that the biodiversity gains planning condition does not apply in relation to a planning permission, where the application for planning permission was made before the 12th of February 2024. Paragraph 3 of the National Planning Practice Guidance ("NPPG") confirms this position (emphasis added).
- 7.32. In the present case, as a matter of fact, the statutory requirement does not apply. As such, and having regard to paragraph 187 of the Framework, the requirement for a 'net gain' is not quantified – the requirement is only that there is a 'positive' gain. Accordingly, any measure of BNG should be attributed positive weight. The BNG metric submitted with the application [CD 3.7] identifies that the appeal proposals are able to achieve net gains in biodiversity values equalling 14.83% for habitats and 122.08% net gain for hedgerows. Having regard to paragraph 187 of the Framework and the significant extent of net gains, this benefit should attract **moderate positive weight**.
- 7.33. The design of the development has been carefully considered and seeks to make effective use of the land as per the requirements of NPPF Paragraph 129. The proposals are for predominantly family housing with gardens that is reflective of the character of Hemingfield. The DAS [CD 3.13] proposes a high quality perimeter block layout (as identified on the Illustrative Masterplan). The development is anticipated to achieve an average density of around 40 dpa across the site.
- 7.34. The development is also considered to accord with the requirements of NPPF Paragraph 135, the principles of the design established in the DAS seek to ensure that the development will be functional, visually attractive, sympathetic to local character and will be a welcoming, safe and distinctive place to live. The proposed development provides an appropriate split between built development and open space that will support and enhance

³⁰ Mr Wilkin's PoE paragraphs 4.23 & 4.26

³¹ Mr Wilkin's PoE paragraph 4.29 & 4.35

local facilities and the transport network. The Design and Access Statement³² identifies an approach that allows the design to reflect varying site characteristics.

- 7.35. In accordance with NPPF Paragraph 11 d(ii), it is considered that this proposal is capable of securing a development that makes effective use of land and secures a well-designed place. This factor weighs in favour of the scheme and should attract **moderate positive weight**.
- 7.36. A benefit also arises from the appeal scheme's drainage proposals, as identified in the technical note on flood risk and drainage prepared by Mr Tilford of Weetwood at Appendix 2 of my evidence. At paragraphs 18 & 19 this notes that the *"Appeal Scheme would alter the natural drainage regime of this part of the Appeal Site so that post development, surface water runoff would be intercepted by the surface water drainage system. The drainage system would convey the intercepted runoff in a northerly direction, and away from existing residential properties located along Briery Meadows, Garden Grove and Hemingfield Road to the infiltration basin located in the northeast part of the Appeal Site"*³³. *By intercepting and redirecting surface water runoff generated in the southeast corner of the Appeal Site, and conveying it to the north, the Appeal Scheme would not increase off-site flood risk and would actually reduce the risk of flooding to existing residential properties from surface water runoff."* (my emphasis).
- 7.37. I attach **moderate positive weight** to this impact of the appeal proposals.

Adverse Impacts

- 7.38. The development proposals conflict with Policy GB6 by proposing residential development on a safeguarded site. The weight to be attributed to this policy conflict is however very limited due to the policy being out of date alongside the inability to deliver a key objective of the NPPF in significantly boosting the supply of homes³⁴ if that policy which restricts the supply of housing is applied with full force. Safeguarded land has already been identified to be suitable for housing and it is contended that no actual harm arises as a consequence of bringing forward the appeal site for development at the present time when there is a significant housing shortage in Barnsley. Whilst the policy conflict is considered to be of **very limited weight**, no adverse impacts in the context of NPPF paragraph 11d) ii. are considered to arise. As set out above, there is no conflict with NPPF paragraph 149.
- 7.39. Mr Good has evidenced the acute and urgent housing needs in Barnsley; real adverse impacts for those people in housing need will therefore arise if the appeal site is prevented from coming forward now.
- 7.40. The appeal proposals are not considered premature as there is no emerging development plan that may help fix the land supply and delivery problem and no harm arises as a consequence of the delivery of the site now. The delivery of the appeal will not prejudice the future delivery of the remaining safeguarded land to the north of Hemingfield. In fact, by delivering a new junction, improvements to bus services and bus stop infrastructure as

³² Character Section from page 26

³³ See Figures 1 & 2 in the Technical Note at Appendix 2

³⁴ NPPF paragraph 61

part of this proposal, and access links up to the adjoining land, the appeal scheme will actually help facilitate the delivery of the remaining safeguarded land.

- 7.41. Whilst not a point that is raised against the appeal proposal by the Council, and notwithstanding the site lies within defined settlement limits and will thus not result in the loss of countryside, the scheme will result in the loss of undeveloped land, as assessed in the Landscape & Visual Appraisal submitted with the application [CD 3.17]. This concludes at paragraph 8.24: *“residential development can be achieved with landscape and visual effects which would be limited and localised. The embedded mitigation and extent of open green space and green links within the site, as shown on the parameters plan, would assimilate the development within the existing landscape / townscape context without undue harm to landscape and visual amenity and provide opportunities for the evolution of a development which can respond positively to its local context”*. As a consequence, I attach **very limited negative weight** to this impact.

Overall Conclusion

- 7.42. The appeal proposal is within the urban area of Hoyland, a designated Principal Town where the spatial strategy of the BLP directs growth. Being within a Principal Town it is in a sustainable location for new housing growth.
- 7.43. We are in an acknowledged housing crisis where needs are far outstripping supply, nationally and in Barnsley. In addition to helping to meet those acute and urgent needs, the appeal proposals deliver additional significant economic, social and environmental benefits with no significant material adverse impacts.
- 7.44. In the circumstances of this appeal, paragraph 11 (d) of the NPPF is engaged where I conclude that it is the benefits of this scheme that significantly and demonstrably outweigh the very limited adverse impacts.
- 7.45. The appeal proposal represents sustainable development in accordance with the NPPF as a whole and should therefore be allowed.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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