

# Section 78 of the Town and Country Planning Act 1990

Appeal against the refusal of Planning Application Reference: 2022/0115

Appeal Reference: APP/R4408/W/24/3341097

Appeal by Network Space Developments Ltd

## **Statement of Common Ground**

Agreed between

Network Space Developments Ltd, Centrix House, Crow Lane East, Newton-le-  
Willows, WA12 9UY

And

Barnsley Metropolitan Borough Council, Westgate Plaza, Westgate, Barnsley,  
S70 2DR

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# 1. Statement

- 1.1 This Statement of Common Ground (SoCG) has been agreed between Hannah Richardson, Spawforths on behalf of the Appellant (Network Space Developments Ltd), and Garry Hildersley, Head of Planning, Policy & Building Control on behalf of Barnsley Metropolitan Borough Council, in respect of the appeal site related to land north of Shaw Lane, Carlton, Barnsley (hereafter referred to as “the Site”).
- 1.2 The purpose of the SoCG is for the Appellant and the Local Planning Authority to agree the factual information relating to the appeal. It is recognised that a SoCG is useful in focusing the issues which separate the parties and assisting the appointed Planning Inspector in reaching fully informed decisions expeditiously and without waste of public and industry resources.
- 1.3 Unless stated otherwise, the content of this document is agreed by the relevant parties listed below:

**Signed on behalf of the Appellant**

**Signed on behalf of the Council**

Hannah Richardson, Spawforths

Garry Hildersley, Barnsley MBC

Date: 05.07.2024

Date: 05.07.2024

## 2. Introduction

2.1 This Appeal (“Appeal”) relates to planning application reference 2022/0115 (hereafter referred to as the “Planning Application”), in relation to the proposed residential development of Land north of Shaw Lane, Carlton S71 3HH, (“Site”).

2.2 A list of agreed Core Documents is located within Appendix 4.

### **Description of Development**

2.3 The Planning Application was submitted to Barnsley Metropolitan Borough Council (“Council”) on 4 February 2022. The description of development, as referred to on the planning application submission (including the planning application form), was as follows:

*“Outline planning application for up to 215 dwellings with associated car parking/garages, landscaping, public open space including both equipped and non-equipped areas of play, SUDS and drainage, with details of a new vehicular access onto Shaw Lane. All other matters reserved apart from means of access.”*

2.4 The Planning Application was registered and assessed by the Council as with a slightly different description as follows; (CD 6.1- 6.40, 7.5-7.7) :

*“Residential development of up to 215 dwellings with associated car parking/garages, landscaping, public open space including both equipped and non-equipped areas of play, SUDS and drainage, with details of a new vehicular access onto Shaw Lane (Outline with all matters reserved apart from means of access)” (“the Description of Development”).*

### **Plans**

2.5 A table listing the plans submitted with the planning application and to be considered as part of this Appeal are located at Appendix 1.

2.6 This sets out the plans submitted with the outline application on 2 February 2022, amended plans to address comments raised by the Local Planning Authority, consultees and other third parties, which were submitted to the Council on 2 June 2023, which also included an updated

Transport Assessment with further survey work, amended vehicular access proposals, enhanced pedestrian and cycle route plans, details of the proposed toucan crossing on Shaw Lane and improvements to Shaw Lane pedestrian walkways. This was further supported by a Masterplan Compliance Statement, Heritage Impact Assessment, Biodiversity Impact Assessment, Badger Survey, Willow Tit Survey, Great Crested Newt Survey and amended and updated illustrative masterplan and Design and Access Statement.

2.7 In addition, the table of plans also sets out the detail of revised plans that were prepared post receipt of the Planning and Regulatory Planning Report 25 September 2023, which were not submitted to the Council, which have been agreed that the Appeal will be based on , together with 3 of the original plans (two unchanged since 2nd June 2023 and the location plan unchanged since 2 February 2022). The four updated plans comprise the following:

- Site Access Layout (IPD-22-580-100a)
- Site Access Visibility Splay (IPD-22-580-101a)
- Signalised Junction Layout (IPD-22-580-103a)
- Pedestrian Footway Improvements 1 (IPD-22-580-105a)

2.8 The Council and the Appellant have agreed that the Appeal should be determined on the basis of these plans. These are minor alterations to the site access, which do not prejudice the proposals or the description of development and that this change is consistent with the principles established in the case of *Bernard Wheatcroft Ltd V Secretary of State for the Environment* , i.e. the application could not be considered to be so changed to deprive any party the opportunity of consultation. Additionally, further public consultation has been carried out with all those previously consulted, and any interested parties, to ensure they too have had the opportunity to comment upon the most up-to-date information available.

2.9 In summary, the plans for approval are:

- Red Line Boundary (P3921-SPA-XX-ZZ-M2-A-10-001 A)
- Site Access Layout (IPD-22-580-100a)
- Site Access Visibility Splay (IPD-22-580-101a)
- Signalised Junction Layout (IPD-22-580-103a)
- Pedestrian Footway Improvements 1 (IPD-22-580-105a)

- Pedestrian Footway Improvements 2 (IPD-22-580-106)
- Pedestrian Footway Improvements 3 (IPD-22-580-107)

2.10 And solely in relation to the access to the Site;

- Site Access Layout (PD-22-580-100a)
- Site Access Visibility Splay (IPD-22-580-101a)

2.11 The Appeal proposals are also supported by illustrative plans which are not plans that would be approved by this Appeal, were the Appeal to be allowed. It has been agreed that these are helpful to show how the Appeal proposals could be developed.

### **Planning Regulatory Report**

2.12 The Council issued an officer report to the Planning and Regulatory Board meeting on 26 September 2023 ("ORC" dated 26 September 2023 CD 11.2). The ORC sets out the background to the proposed development; an overview of consultation responses and third party representation to the Planning Application; and planning officer's review of the planning issues.

2.13 On 26 September 2023 Members resolved to refuse the Planning Application, in line with the officer's recommendation and the reasons for refusal as set out in the ORC. A copy of the Council's Minute is at CD 11.1. The Minute states:

- I. "Mr Peters (Applicant) addressed the Board and spoke against the Officer recommendation to refuse the application"*
- II. Members were asked to refuse the application in accordance with the Officer recommendation of the ORC.*

2.14 The Council's decision notice ("the DN") was issued on 27 September 2023 (CD 12.3). The reasons for refusal are below. Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) says that the DN must state clearly and precisely the Council's full reasons for the refusal specifying all policies and proposals in the development plan which are relevant to the decision.

### **Reasons for Refusal**

- 1) In the opinion of the Local Planning Authority the development of this site would fail to bring forward a coordinated, comprehensive and quality development of the wider Local*

*Plan MU3 allocation and would fail to provide essential infrastructure, including the Northern Access Road, that is required to enable the whole of the allocation to be delivered in line with the Carlton Masterplan Framework, Design Code and Delivery Strategy (application site = site ref L11 within that document). In addition, the proposal is also regarded to be out of sequence, premature and piecemeal. Furthermore, if this site is solely accessed from Shaw Lane, contrary to the Delivery Strategy, then a critical part of the Carlton Masterplan required infrastructure would be under threat as there is no commitment within the application to assist with its delivery as is required, and the burden of the Northern Access Road would fall on the developers of the neighbouring sites. It is also the case that the plans fail to include a small local shop for the benefit of the local community in this part of the site which is a requirement of the Masterplan Framework. As such, the proposal would have a prejudicial and undermining impact on the masterplan and would jeopardise its delivery.*

- 2) In the opinion of the Local Planning Authority the proposed site access from Shaw Lane has not been designed in accordance with the design requirements of the South Yorkshire Residential Design Guide and gives rise to road safety concerns. Furthermore, the proposed offsite highway works at the Church Lane / Shaw Lane / Fish Dam Lane junction are not acceptable as they would not help deliver the new Northern Access Road that is identified as being necessary in the Carlton Masterplan in order to relieve existing congestion in Carlton and along Shaw Lane. Furthermore, the proposed works would give rise to road safety concerns in their own right. The application has also not demonstrated that foot and cycle links provide appropriate levels of sustainable access to and from the site. The links shown to the TPT cannot be fully achieved without land outside the applicant's control. Walk distances to public transport also far exceed the 400m walk distance guidelines. As such, the scheme is contrary to the Carlton Masterplan/Delivery Strategy, the NPPF and Local Plan Policies T3 'New Development and Sustainable Travel' and T4 'New development and Transport Safety'.*
- 3) In the opinion of the Local Planning Authority, the surface and foul water drainage systems proposed as part of this site are not sufficient to cater for the application site and the neighbouring site (L12) as required by the Carlton Masterplan Framework, Design Code and Delivery Strategy. The Delivery Strategy requires the surface water drainage system in parcel L11, including outfall to the existing combined sewer, to also cater for the surface water run-off from parcel L12. The indicative location of the SUDS pond is distant from*

*parcel L12 with the Flood Risk Assessment stating that the drainage strategy is only intended to serve a development of approximately 200 dwellings. Not only is that short of the maximum number of dwellings indicated in the application (215) but it is considerably short of the 584 number of new homes that is to be built on parcels L11 and L12 combined. Furthermore, the applicant has failed to demonstrate that proper provision for foul sewage to parcel L12 has been provided in planning, designing and installing the foul sewerage provision to parcel L11. Therefore, the proposals fail to comply with this part of the Masterplan and Delivery Strategy and are contrary to Local Plan Policies CC1 'Climate Change' and CC3 'Flood Risk'.*

- 4) The site is adjacent to the statutorily designated Carlton Marsh (Dearne Valley Wetlands SSSI). The applicants have not adequately assessed the impact of the development on the SSSI, and as such, the sensitive location of the application site in relation to the surrounding designated sites is not given adequate consideration with the ecological submission, both in terms of potential impacts, but also on the potential to positively contribute to nature's recovery in this location, contrary to Local Plan Policy BIO1 'Biodiversity and Geodiversity' and the associated SPD 'Biodiversity and Geodiversity'.*
- 5) In the opinion of the Local Planning Authority, the proposed development falls short of achieving the minimum housing density figures required by the Carlton Masterplan Framework. The absence of a firm commitment to comply with the housing densities in the masterplan is unacceptable from a Local Plan housing delivery perspective and is contrary to Local Plan Policy H6 'Housing Mix and Efficient Use of Land' and specific requirements contained within the Carlton Masterplan.*
- 6) In the opinion of the Local Planning Authority, the street paraphernalia associated with the junction amendments would, through introducing additional street furniture, clutter and markings, cause a degree of harm to the setting of the Conservation Area and individual historic buildings in the immediate vicinity including the former Wharncliffe Arms and 2 Church Street, contrary to Local Plan Policies D1 'High Quality Design and Place Making' and HE1 'The Historic Environment'.*

2.15 In view of the Council's verdict to refuse planning permission for the appeal scheme, the Appellant has taken the decision to submit and appeal to the Planning Inspectorate.

- 2.16 The Appellant submitted the Appeal pursuant to Section 78 of the Town and Country Planning Act 1990 on 20 March 2024. The Appeal was submitted on 20 March 2024 validated and started by the Planning Inspectorate on 2 May 2024.
- 2.17 Separate SOCG are being prepared to address technical matters including HLS and Heritage.
- 2.18 Subject to confirmation from Natural England, the further documents being provided by the Appellant (SSSI Assessment and updated 2024 ecological surveys) submitted on 29 June 2024 overcome reason for refusal 4.
- 2.19 The Council considers that with mitigation, the appeal proposals would have no harm on the Conservation Area, if it can be demonstrated that the mitigation provides an enhancement to the Conservation Area through the consolidation of street paraphernalia. It is for the appellant to demonstrate that mitigation can be secured and agreed through an appropriately worded condition.
- 2.20 The Councils Drainage Officer, in consultation with the appellants Drainage Consultant, has agreed that the drainage for the site could be addressed through a suitably worded condition.
- 2.21 Consequently, the Council have resolved that it would not defend reasons 3, 4 (subject to confirmation from Natural England) and 6 in this appeal but that it would defend reason 1, 2 and 5 as set out in the decision notice.

### **3. Appeal Site**

- 3.1 The Appeal Site relates to land directly north of Shaw Lane, Carlton. The Site is approximately 7.57 hectares. It has an irregular shape and is relatively flat. The main body of the Site is open agricultural land with vegetation predominately being located around the edges of the Site on the field boundaries. A copy of the Site Location Plan is at Appendix 2.
- 3.2 The Site is located to the north east of Barnsley, to the east of Carlton, and forms part of mixed use allocation MU3. The Site is accessed via Shaw Lane, which leads to the A628, to the east of the Site beyond the railway line.
- 3.3 Shaw Lane forms the southern boundary to the Site and is bounded to the east by the embankments to the railway line. Agricultural land forms the northern and western boundaries to the Site. The Barnsley Canal lies outside the Site boundaries, to the west of the Site, with Carlton Park and Carlton beyond. To the east of the railway embankment are a

variety of industrial/sui generis uses, including metal recycling, and building supplies. Land to the south and north forms part of the wider allocation MU3. To the north west is Outwood Academy, Carlton.

- 3.4 The surrounding area mainly consists of agricultural fields and undeveloped land to the north and south, which are also the subject of Local Plan allocation MU3. That includes the former Carlton Colliery immediately opposite to the south of the site. There are a small number of residential properties positioned opposite to the south and a greater number further along Shaw Lane to the west. Premier Foods Carlton Bakery is located to the south west.
- 3.5 Carlton is identified as being within 'Urban Barnsley', and therefore a Sub Regional Town at Paragraph 5.9 of the adopted Barnsley Local Plan.
- 3.6 The following Public Rights of Way are in the vicinity of the Site. Bridleway No.30 is located to the west of the Site, along the Barnsley Canal, and Footpath No.31 to the south of the Site. This Bridleway, along the Barnsley Canal connects to the wider network, including Bridleway No.17 and No.28, and Footpath No.24 and No.2.
- 3.7 Bus stops are located on Fish Dam Lane, Royston Road/Church Street (Route 57/59), and B6132/Carlton Road (Route 193), connecting Carlton to the surrounding area including Barnsley Town Centre, Shafton, Cudworth, Royston, and Wakefield.

### **Planning History**

- 3.8 There is no planning history of applications on the Appeal site which is of any relevance to the appeal proposal for residential development on the land.
- 3.9 A planning application (2020/150) to vary conditions relating 2, 5, 7, 24 and 25 of planning application reference 2017/1401 to extend the duration of the development to provide for a residential standard remediation strategy, to amend the quantity of waste to be imported and to amend finished levels and the landscaping scheme at the former Carlton Colliery, was submitted on 10 February 2020 and validated on 20 February 2020. It is noted within the application documentation that the earthworks and remediation of this site being sought approval for, are likely to take three years from the grant of this application. The application remains undetermined.

- 3.10 There are currently no other planning applications approved or under consideration for residential development within allocations MU2 (allocated to provide 294 dwellings) and MU3 (allocated to provide 1,683 dwellings).

#### **Pre-application Engagement**

- 3.11 The Appellant undertook pre-Application discussions with Officers over a long period of time, prior to the preparation and submission of the planning application to which this Appeal relates. These discussions also predate the allocation in the adopted Local Plan and the preparation of the Carlton Masterplan Framework.
- 3.12 The Appellant actively participated in the preparation of the Carlton Masterplan Framework, as a willing landowner. These took the form of monthly meetings from early 2020 to the adoption Carlton Masterplan Framework on 25 November 2021 with Officers, alongside attendance at all Landowner workshop and presentations during 2021.

#### **Environmental Impact Assessment**

- 3.13 Along with the submission of the Planning Application, an EIA screening request was submitted. That related to a proposed scheme comprising up to 215 dwellings (and associated infrastructure etc). No response has been received from the Council to confirm the proposed development did not comprise EIA development. PINS are undertaking an EIA Screening of the Appeal proposals and have been issued a copy of the SSSI Assessment, submitted on 29 June 2024, by the Appellant. This will be completed before the Inquiry opens.

## **4. The Appeal Proposal**

- 4.1 The Appeal proposal is seeking “outline planning permission for up to 215 dwellings with associated car parking/garages, landscaping, public open space including both equipped and non-equipped areas of play, SUDS and drainage, with details of a new vehicular access onto Shaw Lane. All other matters reserved apart from means of access.”
- 4.2 The Appeal Site is to be accessed by a new priority junction off Shaw Lane.
- 4.3 In addition to providing up to 215 dwellings, the scheme would deliver 10% affordable housing (22 units). Furthermore, the scheme would offer a designated public open space, Education

contributions, Sustainable Travel contributions, a contribution towards the Norther Access Road and 10% biodiversity net gain.

## 5. Policies

### **The Development Plan**

- 5.1 The Statutory Development Plan comprises the Barnsley Local Plan (CD 3.1), which was adopted in 2019 ("the Local Plan") and the Joint Waste Plan, adopted in March 2012 and made Neighbourhood Plans.

### **Neighbourhood Plans**

- 5.2 The designated Neighbourhood Plans within Barnsley are as follows:
- Silkstone Neighbourhood Development Plan
  - Cawthorne Neighbourhood Development Plan
  - Penistone Neighbourhood Development Plan
  - Oxspring Neighbourhood Development Plan
- 5.3 It is agreed that the Joint Waste Plan is not material to the Appeal Scheme, there are no pertinent Neighbourhood Plans relevant to the determination of the Appeal and hence the focus is on the Local Plan policies.
- 5.4 Prior to its adoption, the Local Plan was subject to a Sustainability Appraisal, which considered alternatives, and which supported the Local Plan's allocations.
- 5.5 The Local Plan Policies relevant for determining this Appeal, which are listed as follows:
- SD 1 Presumption in favour of Sustainable Development.
  - GD 1 General Development
  - LG 1 City Regions
  - LG 2 The Location of Growth
  - H 1 The Number of New Homes to be Built
  - H 2 The Distribution of New Homes

- H 3 Uses on Allocated Housing Sites
- H 6 Housing Mix and Efficient Use of Land
- H 7 Affordable Housing
- H 8 Housing Regeneration Areas
- MU3 Land off Shaw Lane, Carlton
- T 1 Accessibility Priorities
- T 2 Safeguarding of Former Railway Lines
- T 3 New Development and Sustainable Travel
- T 4 New Development and Transport Safety
- T 5 Reducing the Impact of Road Travel
- D 1 High Quality Design and Place Making
- HE1 The Historic Environment
- HE2 Heritage Statement and general application procedures
- HE3 Developments Affecting Historic Buildings
- LC 1 Landscape Character
- GI 1 Green Infrastructure
- GI2 Canals – Safeguarded Routes
- GS 1 Green Space
- GS 2 Green Ways and Public Rights of Way
- BIO 1 Biodiversity and Geodiversity
- CC 1 Climate Change
- CC 2 Sustainable Design and Construction
- CC 3 Flood Risk
- CC 4 Sustainable Drainage Systems (SuDs)
- RE 1 Low Carbon and Renewable Energy
- CL1 Contaminated Land and Unstable Land
- POLL1 Pollution Control and Protection

- AQ 1 Development in Air Quality Management Areas
- I 1 Infrastructure and Planning Obligations
- I 2 Educational and Community Facilities

5.6 Prior to the current Development Plan, the Appeal Site was previously safeguarded land (ref: SG15) within the adopted Core Strategy 2011, the Development Sites and Places Consultation Draft 2012 (CD 3.4) and the Proposals Maps Consultation Draft 2012 (CD 3.7 ). Additionally, the Site was safeguarded in the Barnsley Unitary Development Plan (UDP) adopted December 2000 (CD 3.8) through Policy BA10.

5.7 There is no relevant Emerging Local Plan for consideration. The Local Plan was adopted in January 2019. A review was carried out in November 2022 and it was reconfirmed by Barnsley Council, at the Cabinet meeting on 2 November 2022, that the Local Plan “remains fit for purpose and is adequately delivering its objectives”, which means “no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. A further review will take place in 2027 or earlier if circumstances, including fundamental changes to the Local Plan system, require it”.

### **The National Planning Policy Framework**

5.8 The following chapters and paragraphs of the latest revision National Planning Policy Framework (NPPF) from December 2023, considered relevant to the determination of the appeal, are as follows:

- 2 – Achieving sustainable development - 7, 8, 9, 10, 11, 12
- 4 – Decision making - 38, 47, 55, 56, 57, 58
- 5 – Delivering a sufficient supply of homes - 60, 61, 62, 63, 66, 69, 70
- 8 – Promoting healthy and safe communities - 96, 97, 99, 101, 102, 104
- 9 – Promoting sustainable transport - 108, 109, 114, 115, 116, 117
- 11 – Making effective use of land - 123, 124, 128, 129
- 12 – Achieving well designed places - 131, 132, 133, 135, 136, 137, 138, 139
- 14 – Meeting the challenge of climate change, flooding, and coastal change - 162, 163, 165, 173, 175

- 15 – Conserving and enhancing the natural environment - 180, 185, 186, 189, 190, 191, 194
- 16 – Conserving and enhancing the historic environment - 200, 201, 203, 205, 206, 207, 208, 209

### **Other Relevant Policies**

#### ***Supplementary Planning Documents***

5.9 It is acknowledged that there are a number of Supplementary Planning Documents (SPDs) and Supplementary Planning Guide (SPGs) relevant to the Appeal scheme. These have been listed below and can be found at CD 4.1-4.13):

- Financial contributions for schools (May 2019)
- Trees and hedgerows (May 2019)
- Design of housing development (May 2019)
- Open space provision on new housing developments (May 2019)
- Affordable housing (May 2019)
- Biodiversity and geodiversity (May 2019)
- Planning obligations (November 2019)
- Sustainable Travel (November 2019)
- Section 38 agreements; and
- Section 278 Agreements.
- Development on land affected by contamination

### **Other Planning Documents**

#### ***Carlton Masterplan Framework, Design Code and Delivery Strategy***

5.10 The Carlton Masterplan Framework(CD 5.1) relates to Local Plan allocations MU2 and MU3. The Appeal Site forms part of MU3. A Design Code forms part of the Masterplan Framework and has been based on Building for a Healthy Life Standard. The Masterplan Framework is accompanied with a Delivery Strategy (CD 5.2).

5.11 The consultation process of the Carlton Masterplan Framework and Delivery Strategy was as follows:

- May 2018 – Version 1 for the Royston and Carlton Masterplan Framework (Network Space Development Ltd signed NDA so could be party to early discussions)
- 2 June 2021 – Carlton Masterplan Framework (Round 1 Consultation) – heard at Cabinet meeting. The Delivery Strategy was not part of this Consultation.
- From 16 June to 21 July 2021 – a six-week consultation exercise was carried out to gather views on the Consultation Carlton Masterplan Framework. The Delivery Strategy did not form part of this consultation.
- 16 September 2021 – First Draft of the Delivery Strategy produced by the Council.
- 22 October 2021 – Delivery Strategy issued by Council in advance of Cabinet meeting.
- 3 November 2021 – Carlton Masterplan Framework (Adoption) – heard at Cabinet meeting. The Delivery Strategy was appended to the Framework at this meeting.

5.12 25 November 2021 – Carlton Masterplan Framework (Adoption) – heard at Full Council meeting. The Delivery Strategy was appended to the Framework at this meeting. As outlined in 3.7 above, the Appellant also actively participated in the preparation of the Carlton Masterplan Framework, as a willing landowner. These took the form of monthly meetings from early 2020 to the adoption Carlton Masterplan Framework on 25 November 2021 with Officers, alongside attendance at all Landowner workshop and presentations during 2021

5.13 The Carlton Masterplan Framework was informed by single six-week public consultation exercise between 16 June and 28 July 2021, and was adopted by Full Council in November 2021, as noted in the minutes of that meeting (CD 12.2).

### ***South Yorkshire Residential Design Guide***

5.14 The South Yorkshire Residential Design Guide was adopted in 2011.

### **The Allocation of the Site**

5.15 The Appeal Site is allocated for mixed use for housing and greenspace within the Local Plan, under Site Reference MU3, titled 'Land off Shaw Lane, Carlton'. The full extract from the Local Plan which outlines the allocation profile and specific site requirements is shown in Appendix

3. The Site forms part of allocation MU3 which is to deliver 1683 homes (indicative number in MU3 policy).
- 5.16 The Appeal scheme is seeking to provide dwellings only on the part of the MU3 allocation comprising parcel L11 (as identified in the Carlton Masterplan Framework).
- 5.17 The Appeal Site was identified as a mixed use site for housing and greenspace allocation MU3 in the Local Plan and was maintained as such an allocation through each stage of the Local Plan preparation through to adoption. The Council considered the suitability of the draft housing allocation MU3 through their own Local Plan evidence base which included the Sustainability Appraisal (SA) at Regulation 19 Stage and Main Modifications Stage.
- 5.18 Prior to the current Development Plan, the Appeal Site was previously safeguarded land (ref: SG15) within the adopted Core Strategy 2011, the Development Sites and Places Consultation Draft 2012 (CD 3.4) and the Proposals Maps Consultation Draft 2012 (CD 3.7). Additionally, the Site was safeguarded in the Barnsley Unitary Development Plan (UDP) adopted December 2000 (CD 3.8) through Policy BA10. Therefore, the Appeal Site has a long history of being regarded as a suitable site for development.

## **6. Obligations and Conditions**

- 6.1 A draft set of conditions and a draft Section 106 Agreement are being circulated between the Appellant and the Council, with a view seeking to agree these prior to the opening of the Inquiry.

## 7. Matters Agreed/Not Agreed

Matter	Appellant Position	LPA Position
<b>Relevant Planning Designations and policies</b>	Agreed as set out in section 5 above.	Agreed as set out in section 5 above.
<b>Outline Planning application and Decision</b>	Agreed as set out in section 2 above.	Agreed as set out in section 2 above.
Description of development	Agreed as set out in Paragraph 2.4 above.	Agreed as set out in Paragraph 2.4 above.
Application content	A list of application plans and documents as set out within Appendix 4.	Agreed
<b>Environmental Impact Assessment (EIA)</b>	A screening request was submitted with the outline planning in February 2022 setting out that the proposed development does not constitute EIA development. This related to a proposed scheme comprising up to 215 dwellings (and associated infrastructure etc). No response has been received from the Council to confirm the proposed development did not comprise EIA development. It is understood that PINS are undertaking a screening of the Appeal proposals and this will be completed prior to the opening of the Inquiry.	The NE consultation response identified various documents which were required in order to understand the issues in relation to the SSSI. The Appellant has now provided these and the LPA is in a position to prepare a screening opinion. The LPA awaits a formal request to carry out a screening opinion.
<b>Principle of Development</b>		
<b>Site Allocation</b>	The Appeal Site was identified as mixed use allocation for housing and greenspace allocation Site MU3 in the Local Plan and was maintained as allocation through each stage of the Local Plan preparation through to adoption. The Council considered the suitability of the draft allocation Site MU3 through their own Local Plan evidence base which included the Sustainability Appraisal (SA) at Regulation 19 Stage and Main Modifications Stage.	The appeal Site is allocated for Mixed Use. The site specific policy for MU3 proposes use for Housing and Green space. It also requires small scale convenience and community facilities in compliance with Local Plan Policy TC5 Small Local Shop within the MU3 allocation. Site Policy MU3 requires development subject to a masterplan. The Carlton Masterplan requires the shop to be located in the Site. The Delivery Strategy requires the location of the shop in the Site (see 5.4.6 'Phase 3 L11 Area').

<p><b>Compliance with Statutory Development Plan</b></p>	<p>The Appeal Scheme is in full compliance with the relevant policies of the Barnsley Local Plan (2019) as listed within paragraph 4.3 of this SoCG.</p>	<p>The development is contrary to the Local Plan Policies, Supplementary Planning Documents and associated documents as set out in the reasons for refusal, Statement of Case and Proofs of evidence. These include, but are not limited to;</p> <p>MU3 Land off Shaw Lane, Carlton</p> <p>T3 'New Development and Sustainable Travel'</p> <p>T4 'New Development and Transport Safety'</p> <p>BIO1 'Biodiversity and Geodiversity'</p> <p>H6 'Housing Mix and Efficient Use of Land'</p> <p>HE1 'The Historic Environment'</p> <p>D1 'High Quality Design and Place Making'.</p> <p>TC5 'Small Local Shops'</p>
<p><b>Carlton Masterplan Framework, Design Code and Delivery Strategy.</b></p>	<p>Whilst the Carlton Masterplan Framework has been subject to a public consultation exercise, it has not been subject to examination in public, on behalf of the Secretary of State. In consequence, having regard to Sections 17, 37 and 28 of the Planning and Compulsory Purchase Act 2004, it cannot be a development plan document and therefore is not the development plan or a part of the development plan for the purposes of Section 38(6) of that same Act.</p> <p>The Carlton Masterplan Framework and Delivery Strategy is not a Supplementary Planning Document. The Town and Country Planning (Local Planning) England Regulations 12 provides the stages associated with preparing a Supplementary Planning Document (SPD). It is not apparent that the Council undertook Stage 1 (Public Participation) early engagement in accordance with Regulation 12. The Council did undertake Stage 2 (Representations of SPDs) consultation but it was not formerly advertised as an SPD. Following adoption of the Masterplan Framework, it is not evident that an Adoption Statement was published in accordance with Regulation 14.</p>	<p>This development parcel is identified as L11 in the Delivery Strategy and is contained within Phase 3 of the phasing part. Within the strategy for Phase 3 it states that <i>"Due to congestion on the existing highway network, access needs to be secured off Royston Lane via the northern access road. This access road fits in with BMBC's wider strategic transport aspirations."</i> However, in order to secure access to Royston Lane, phased development of the parcels will require L12 to be brought forward in advance of L11. As such, the proposal fails to accord with the Carlton Masterplan framework and associated delivery plan as it seeks to gain access from Shaw Lane prior to the northern access being secured from Royston Lane.</p> <p>The Carlton Masterplan Framework is not an SPD but is an adopted council document about which there has been public consultation. It is a policy requirement under MU3.</p>

	<p>The Carlton Masterplan Framework, Design Code and Delivery Strategy, adopted on 25 November 2021, incorporates and allows for flexibility. Section 6 of the Masterplan Framework outlines <i>“Development of the site [MU3] shall come forward in phases. There is a flexibility on how phases may come forward and illustrative phasing is depicted in Fig. 23. It is noted that phases may not necessarily be delivered sequentially, however the delivery of certain phases could be dependant upon the availability of infrastructure networks”</i>. Similarly in the Delivery Strategy under Section 3, <i>“It is expected that development of the site will come forward in a series of phases. Illustrative phasing is depicted in Figure 2. It is noted that phase will not necessarily be delivered sequentially...”</i>.</p> <p>The Carlton Masterplan Framework, Design Code and Deliver Strategy provides flexibility. This flexibility was acknowledged by the Council in the officer committee report relating to the Application. The Appeal scheme uses this flexibility to deliver sustainable development.</p>	
<b>Five Year Housing Land Supply</b>	<p>The Council cannot demonstrate a five year housing land supply. As such, the “tilted balance” or presumption in favour of sustainable development, as contained within paragraph 11 (d) of the NPPF applies to the Appeal scheme.</p> <p>There is a separate Statement of Common Ground on this matter.</p>	Agreed. There is a separate Statement of Common Ground on this matter.
<b>Housing Density</b>	<p>This is an outline application, based on an illustrative layout. Matters relating to layout, scale and appearance, including densities, would be subject to evaluation at Reserved Matters stage.</p> <p>The Appeal Site is required to deliver access from Shaw Lane, the first leg of the Northern Access Road, areas of Public Open Space, provision for connectivity to TPT and NCN and designated areas for SuDS for both parcels L11 and L12.</p> <p>In addition to the onsite infrastructure provisions, achieving higher densities onsite would require a change in the housing mix to introduce apartment blocks and include more terraced properties.</p>	The absence of a firm commitment to comply with the housing densities in the masterplan is unacceptable from a housing delivery perspective.

	<p>This housing mix would result in streets dominated by vehicular parking which has a fundamental bearing on the density, design and quality of a scheme and this housing mix would lead to streets being visually dominated by parking</p> <p>Any perceived marginal under delivery on density, is not material.</p>	
<b>South Yorkshire Residential Design Guide</b>	<p>The Guide has been acknowledged by South Yorkshire Mayoral Combined Authority as becoming out of date. The Design Guide was prepared prior to the first NPFF and NPG and is now 13 years old and does not align fully with current policy and guidance. Therefore, due to these factors the South Yorkshire Residential Design Guide can only be ascribed 'limited weight'.</p>	<p>The Guide complements and supports the policies in the Development Plan and associated Supplementary Planning Documents.</p> <p>It remains important guidance particularly for highways safety issues.</p>
<b>Local Plan Policy TC5 'Small Local Shops'</b>	<p>We do not agree that this is a relevant policy. This policy is about determining a small shop outside of a centre, the appeal proposal does not include a shop.</p>	<p>Local Plan Policy MU3 states that development will be expected to provide small scale convenience retail in compliance with policy TC5.</p> <p>Paragraph 5.4.7 of the Masterplan delivery strategy requires the appeal site (L11) to provide a small local shop as required by the Local Plan and as indicated in the Masterplan Framework.</p>
<b>Highways and Transportation</b>		
<b>Proposed Access</b>	<p>The scheme's proposed vehicular access to serve the Site from Shaw Lane.</p>	<p>Not agreed for reasons set out in the Statement of Case, PRB report and Highways Officers Proof or Evidence.</p>
<b>Transport Impact</b>	<p>The development of the Site will not result in traffic flows or an increase in vehicle trips that would result in a severe residual impact on the highway network.</p>	<p>Not agreed for reasons set out in the Statement of Case, PRB report and Highways Officers Proof or Evidence.</p>
<b>Northern Access Road</b>	<p>The scheme proposes to construct the first leg of the Northern Access Road through the Appeal Site</p>	<p>Not agreed. An indicative Road position is shown on the submitted plan, however, in order to secure access to Royston Lane, phased development of the parcels will require L12 to be brought forward in advance of L11. As such, the proposal fails to accord with the Carlton Masterplan framework and associated delivery plan.</p>
<b>Wheatcroft Plan Submission</b>	<p>Submitted to address previous concerns in terms of design of access (general), Site access Visibility Splay, pedestrian footways, proposed offsite mitigation at junction of Church Street/Shaw Lane/ Fish Dam Lane.</p>	<p>Please find below in terms of the Wheatcroft Plan submission:</p> <ul style="list-style-type: none"> <li>Site Access Layout ref: IPD-22-580-100a – Not agreed for reasons set out in the Statement of Case, PRB report and Highways Officers Proof or Evidence.</li> </ul>

		<ul style="list-style-type: none"> <li>• Site Access Visibility Splay ref: IPD-22-580-101a – Agreed based on the visibility shown.</li> <li>• Signalised Junction Layout ref: IPD-22-580-103a - Not agreed for reasons set out in the Statement of Case, PRB report and Highways Officers Proof or Evidence.</li> <li>• Pedestrian Footway Improvements 1 – ref: IPD-22-580-105a - Not agreed for reasons set out in the Statement of Case, PRB report and Highways Officers Proof or Evidence.</li> </ul>
<b>Trip Generation and Distribution</b>	<b>Adequate information submitted regarding Predicted Trip Generation and Trip Distribution.</b>	<b>Agreed</b>
<b>Documents submitted with the application/appeal</b>	A Transport Assessment (TA) and Travel Plan have been submitted with the planning application to fully demonstrate that there is not a 'severe' impact on the Highway network.	<p>The LPA do not agree in terms of the following documents (further details are set out in the Statement of Case, PRB Report and Highways Proof of Evidence);</p> <ul style="list-style-type: none"> <li>• Scope of Transport Assessment</li> <li>• Base Model Outputs within the Transport Assessment</li> <li>• Predicted Model outputs within the Transport Assessment</li> <li>• Accessibility by Sustainability Modes</li> <li>• Road Safety Audit</li> <li>• Form and Design of offsite controlled crossing facility on Shaw Lane.</li> </ul>
<b>Pedestrian and cycle links</b>	Adequate Pedestrian and cycle improvements are provided.  Swept paths have been submitted.	Disagree. The links shown to the TPT cannot be fully achieved without land outside the applicant's control. Walk distances to public transport far exceed the 400m walk distance guidelines at circa 700m. The proposed footway widening along Shaw Lane cannot be accepted as presented given the lack of information, and road safety concerns given the carriageway would have to be narrowed to accommodate the footway widening. Some swept paths have been undertaken but these fail to demonstrate that the carriageway narrowing is acceptable from an operational perspective.
<b>Drainage</b>		

<b>Flood Risk Assessment</b>	The application was supported with a Flood Risk Assessment that has been the subject of consultation with the Local Lead Flood Authority (LLFA). They have not raised any objection to the scheme, subject to conditions.	Agreed.
<b>Allocation</b>	The majority of the site falls within Flood Zone 1 at the lowest risk of flooding.	Agreed.
<b>Masterplan site</b>	Adequate Drainage information has been submitted for the outline application and with the appeal. Any additional requirements could be addressed via condition.	Agreed. Requirements to be addressed via a suitably worded condition/conditions.
<b>Ecology</b>		
<b>BNG</b>	The submitted BNG calculations demonstrate a 10% gain for the proposals	Agreed.
<b>Habitat</b>	The creation of an extensive area of scrub woodland to the west of the development and along the frontage with Shaw Lane will offer good foraging habitat for habitats and species following completion of the development	Agreed.
<b>SSSI</b>	A SSSI Assessment has been undertaken, the scope of which has been agreed and shared with the Council. This has concluded that there will be no direct or indirect impacts to the SSSI during the construction or operational phases of the Proposed Development and that there are no known ecological constraints to preclude development of the Site subject to this Appeal	Agreed subject to confirmation from Natural England.

<b>Heritage</b>		
<b>Conservation Area/Listed Buildings</b>	The Appeal Site does not fall within a Conservation Area. The Conservation Area is located to the west of the Application Site. The proposals show the introduction of an off-site signalised traffic junction within the Carlton Conservation Area, within the proximity of two listed buildings, the closest being over 100 meters away on Manor Close Farm, set off Fish Damn Lane.	Agreed.
<b>Harm</b>	<p>A Heritage Impact Assessment was submitted stating the proposed highway works will have a minor impact upon the Conservation Area, equating to less than substantial harm. With mitigation measures in place there will be no harm.</p> <p>The detailed design of the proposed highway works are therefore agreed as follows;</p> <p>I. General - The works will be designed with due cognisance to Historic England's guidance in the document entitled 'Streets for All- Advice for Highway and Public Realm Works in Historic Places, 2018'.</p> <p>II. Traffic signs and road markings- to be kept to a minimum and in accordance with the Traffic Signs Road markings General Directive (TSRGD).</p> <p>III. Single stage crossings – retaining the current design to provide straight across single stage pedestrian crossings.</p> <p>IV. No pavement edge barriers – avoid the use of guard railing and other physical barriers.</p> <p>V. Controller - The traffic signal controller will be located at the back of existing footway and in a suitable safe and convenient location and designing them with raised relief panels deters flyposting. The Historic England guidance in 'Streets for All'</p>	<p>It is for the Appellant to demonstrate that the proposed mitigation can be secured through an appropriately worded condition.</p> <p>The Council considers that if the proposed mitigation can be secured there will be minimal less than substantial harm/ no harm to the Conservation Area.</p>
<b>S106/Contributions</b>		

<b>Planning Obligations</b>	<p>It is agreed that should the appeal be successful, a Section 106 obligation (S106) will be binding upon the Site, in order to provide the required planning obligations to add public benefit and mitigate some of the impacts of the Appeal scheme. These include; Provision of Affordable Housing, Public Open Space, Off site Highway improvements &amp; financial contributions for Sustainable travel and Education.</p> <p>The Appellant is willing to make a contribution towards the Northern Access Road. The Appellant has never been provided with the level of contribution required towards the Northern Access Road, the Council.</p>	<p>Agreed. Full requirements are set out in the SoC and are subject to the calculations set out in the relevant SPD's. A contribution towards the Northern Access Road would also be required, full details of the contribution are to follow.</p>
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